Report of the Human Rights Committee

Volume I

General Assembly
Official Records • Fifty-third Session
Supplement No. 40 (A/53/40)

United Nations

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NOTE

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C. Communication No. 611/1995, H. Morrison v. Jamaica (adopted on 31 July 1998, sixty-third session).

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* See Official Records of the General Assembly, Fifty-third Session, Supplement No. 40 (A/53/40), vol. II.

I. ORGANIZATIONAL AND OTHER MATTERS

A. States parties to the International Covenant on Civil and Political Rights

1. As at 31 July 1998, the closing date of the sixty-third session of the Human Rights Committee, 140 States had ratified, acceded or made a declaration of succession[1] to the International Covenant on Civil and Political Rights, and 92 States had ratified or acceded to the Optional Protocol to the Covenant.[2] Both instruments were adopted by the General Assembly in resolution 2200 A (XXI) of 16 December 1966 and opened for signature and ratification in New York on 19 December 1966. They entered into force on 23 March 1976. Also, as at 31 July 1998, 45 States had made the declaration envisaged under article 41, paragraph 1, of the Covenant, which came into force on 28 March 1979.

2. The Second Optional Protocol, aiming at the abolition of the death penalty, which was adopted and opened for signature, ratification or accession by the General Assembly in resolution 44/128 of 15 December 1989, entered into force on 11 July 1991. As at 31 July 1998, there were 33 States parties to the Second Optional Protocol, an increase of three in the past year.

3. A list of States parties to the Covenant and to the Optional Protocols, indicating those which have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.

4. Reservations and other declarations made by a number of States parties in respect of the Covenant and/or the Optional Protocols are set out in document CCPR/C/2/Rev.4 of 24 August 1994 and in the notifications deposited with the Secretary-General.

B. Sessions

5. The Human Rights Committee held three sessions since the adoption of its previous annual report. The sixty-first session (1616th to 1644th meetings) was held at the United Nations Office at Geneva from 20 October to 7 November 1997, the sixty-second session (1645th to 1670th meetings), at United Nations Headquarters from 23 March to 9 April 1998, and the sixty-third session (1671st to 1699th meetings), at the United Nations Office at Geneva from 13 to 31 July 1998.

C. Elections, membership and attendance

6. At the Seventeenth Meeting of States Parties to the Covenant, held at United Nations Headquarters on 7 October 1997, Mr. Abdallah Zakhia (Lebanon) was elected to the seat left vacant following the death of Mrs. Laure Moghaizel (A/52/40, para. 7) for a term to end on 31 December 2000.

7. By letter of 10 July 1998, the Chairperson notified the Secretary-General of the resignation of Mr. Danilo Türk (Slovenia), with effect from 6 July 1998. At its 1671st meeting, on 13 July 1998, the Committee expressed its appreciation for Mr. Türk's contribution. Mr. Türk's mandate was due to expire on 31 December 2000, and the vacancy will be filled at the election to be held in New York on 10 September 1998, at the Eighteenth Meeting of States Parties.

8. All the members of the Committee participated at the sixty-first and sixty-third sessions. Mrs. Pilar Gaitan de Pombo did not attend the sixty-second session.

D. Solemn declaration

9. At the 1616th meeting (sixty-first session), on 23 October 1997, Mr. Abdallah Zakhia, who had been elected at the Seventeenth Meeting of States Parties to the Covenant, made a solemn declaration in accordance with article 38 of the Covenant before assuming his functions.

E. Guidelines

10. At its 1644th meeting (sixty-first session), the Committee adopted guidelines for the exercise of their functions by members. The guidelines (CCPR/C/61/GUI) are annexed to the present report (annex III).

F. Working groups

11. In accordance with rules 62 and 89 of its rules of procedure, the Committee established working groups which met before its sixty-first, sixty-second and sixty-third sessions. Working groups were entrusted with the tasks of making recommendations to the Committee regarding communications received under the Optional Protocol and of preparing concise lists of issues concerning the initial, second, third and fourth periodic reports scheduled for examination by the Committee. The working group on periodic reports under article 40 was also mandated to study the Committee's working methods, and it systematically held discussions with representatives of the specialized agencies and subsidiary bodies, particularly the International Labour Office, the Office of the United Nations High Commissioner for Refugees, the World Health Organization and the United Nations Children's Fund, in order to obtain advance information on the reports to be considered by the Committee. To that end, the working group also met representatives of non-governmental organizations - Amnesty International, Human Rights Watch, the International Federation of Human Rights Leagues, the International Service for Human Rights, the Lawyers Committee for Human Rights, Equality Now and several local organizations. The Committee noted with satisfaction the great interest shown in its work by these agencies and organizations, and thanked them for the information provided.

12. Sixty-first session (13-17 October 1997): the Working Group on Communications and the Working Group on Article 40 were composed of Mr. Bhagwati, Lord Colville, Mr. El Shafei, Ms. Evatt and Mr. Yalden; Lord Colville was elected Chairman/ Rapporteur.

13. Sixty-second session (16-20 March 1998): the Working Group on Communications and the Working Group on Article 40 were composed of Mr. Ando, Mr. Bhagwati, Mr. Buergenthal, Mr. El Shafei, Ms. Evatt and Ms. Medina Quiroga; Mr. Ando was elected Chairman/Rapporteur.

14. Sixty-third session (6-10 July 1998): the Working Group on Communications and the Working Group on Article 40 were composed of Mr. Bhagwati, Lord Colville, Mr. Klein, Mr. El Shafei, Ms. Evatt, Mr. Pocar, Mr. Prado Vallejo, Mr. Scheinin and Mr. Yalden; Mr. Yalden was elected Chairman/Rapporteur.

G. Other United Nations human rights activities

15. At each of the Committee's sessions, the representative of the Secretary-General informed the Committee about activities carried out by United Nations bodies dealing with human rights issues. In particular, results of sessions of the Committee on the Rights of the Child, the Committee on the Elimination of Racial

Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights and the Committee against Torture were presented to the Human Rights Committee. Recent activities of the General Assembly and the Commission on Human Rights relevant to the work of the Committee were also described. The United Nations High Commissioner for Human Rights, Mrs. Mary Robinson, addressed the sixty-first and sixty-third sessions of the Committee.

16. On 24 November 1997, Mr. Alain Pellet, Chairman of the International Law Commission and Special Rapporteur on treaty reservations, wrote to the Chairperson of the Committee to invite the Committee to comment on the Commission's Preliminary Conclusions on Reservations to Normative Multilateral Treaties, including Human Rights Treaties. The Preliminary Conclusions were considered at the sixty-second session in the light of the Committee's General Comment on issues relating to reservations made on ratifications of the Covenant or the Optional Protocol. On 9 April 1998, the Committee decided that the Chairperson would write to Mr. Pellet to inform him of the Committee's first reactions to the Preliminary Conclusions. The Chairperson's letter of 9 April to Mr. Pellet is annexed to this report (annex IX). The letter indicated that the Committee would study the Preliminary Conclusions more carefully and formulate its comments at a later stage. A working group of the Committee took up the matter again at the sixty-third session and is preparing a further response for the Committee to consider at its sixty-fourth session.

17. At the 1621st meeting (sixty-first session) on 22 October 1997, a representative of the Office of the United Nations High Commissioner for Refugees, Ms. Carol Batchelor, addressed the Committee on the subject of statelessness.

H. Minimum humanitarian standards/fundamental standards of humanity

18. The Commission on Human Rights, in its resolution 1997/21 on minimum humanitarian standards, requested the Secretary-General, in coordination with the International Committee of the Red Cross, to prepare an analytical report on the issue of fundamental standards of humanity, taking into consideration in particular issues raised in the report of the International Workshop on Minimum Humanitarian Standards, held in Cape Town in September 1996. The study should identify, *inter alia*, common rules of human rights law and international humanitarian law that are applicable in all circumstances. According to the resolution, the Secretary-General is requested, in preparing his study, to seek the views of and information from, *inter alia*, human rights treaty bodies.

19. At the 1644th meeting (sixty-first session), on 7 November 1997, Mr. Tom McCarthy of the Office of the United Nations High Commissioner for Human Rights, addressed the Committee concerning the above resolution of the Commission on Human Rights. Following this, the Committee established a working group to deal with issues relating to fundamental standards of humanity. The working group met during the sixty-second session and discussed various approaches and arguments as to the relationship of human rights law and humanitarian law in general, and the interpretation of article 4, paragraph 1, of the Covenant in particular.

20. The mandate of the Human Rights Committee is to monitor compliance with the International Covenant on Civil and Political Rights. When faced with situations of armed conflict, both external and internal, which affect States parties to the Covenant, the Committee will necessarily examine whether these States parties are complying with their Covenant obligations. The crucial question in these situations is likely to relate to the power of the States parties to derogate from their Covenant obligations in times of public emergency. The Committee takes note of the fact that article 4, paragraph 1, of the Covenant establishes as one of the

conditions for any derogation from a State party's obligations under the Covenant that such measures are not inconsistent with the State party's other obligations under international law. Although the practice of the Committee under the Covenant and its two Optional Protocols has not produced much material on the interpretation of this clause, it is evident that the Committee has to take the State party's other international obligations into account when monitoring compliance with article 4, paragraph 1. The Committee intends to prepare a general comment on this question, revising its existing general comment 5(13) on article 4 of the Covenant.

21. The Committee supports the conducting of a further study on the matter identified by the Commission and looks forward to being consulted in the process.

I. Staff resources

22. The Committee regrets that the staff situation referred to in the previous annual report (A/52/40, para. 19) has continued to deteriorate in the past year and that there have been further reductions in the secretariat staff available to the Committee. Some of the Committee's most experienced professional officers were assigned to other duties, leaving the Committee with insufficient staff for the effective performance of its functions under the Covenant. This led to difficulties, especially at the sixty-second and sixty-third sessions (including inadequate preparation, late documentation and lack of follow-up activities). Members of the Committee met with the United Nations High Commissioner for Human Rights, Mrs. Mary Robinson, during the sixty-third session to discuss these problems. The Committee emphasized the need for sufficient professional and other staff to be allocated with experience in the Committee's work and specific responsibilities for that work. The Committee regrets that its repeated pleas for the allocation of the necessary staff for the effective performance of its functions, as required by article 36 of the Covenant, have gone unheeded and that instead of improvement there has been a continual deterioration of the situation.

J. Publicity for the work of the Committee

23. The Chairperson, accompanied by members of the Bureau, met with the press at each of the Committee's three sessions. Some of these meetings were held in mid-session to create better opportunities for the media to be informed about the Committee's activities.

K. Documents and publications relating to the work of the Committee

24. The Committee continued to be seriously concerned about the difficulties it faced in regard to the issuing of Committee documents, particularly reports by States parties, as a consequence of delays in translations and the strict application of the rule relating to the simultaneous distribution of documents in all languages. As was also noted in the previous report (A/52/40), several reports scheduled by the Committee for discussion at each session in the current year were not translated in time to be distributed to all members before the beginning of those sessions, a factor which seriously inhibited the work of the Committee. One report was not translated into any other language.

25. The Committee emphasised that to carry out its mandate effectively, members must have copies of State reports in advance of the working group or session at which they are to be considered.

26. Members of the Committee expressed concern about the fact that the second volume of its annual report, containing the Views adopted by the Committee under

the Optional Protocol, although prepared, had not been published for the past three years. The last to be published was 1993-1994. Such lack of publication limits the dissemination of the Committee's jurisprudence.

27. The Committee noted with concern that publication of its Official Records had been at a standstill since the production of 1992/1993, volume II, and that resources have not been made available for the production of further volumes. It repeated its serious concern expressed in the previous annual report (A/52/40, para. 25). It noted that while the donation from the Sasakawa Foundation had made it possible to reduce the backlog, the funds of that donation were nearly exhausted. The Committee urges that an alternative source of financing be sought for this very important publication and that the matter be brought to the attention of the Publication Board of the Office of the United Nations High Commissioner for Human Rights.

28. The Committee welcomed the opening of the Web site of the Office of the United Nations High Commissioner for Human Rights (http://www.unhchr.ch), in which Internet users have access to the treaty bodies database, including some Views under the Optional Protocol. The Committee, however, notes that this opportunity is not fully effective, because the input of material is incomplete, especially in regard to the Committee's Views. It urges once again that the work of publishing the third volume of the Selected Decisions adopted under the Optional Protocol be speeded up so as to eliminate the backlog as soon as possible. This is the fifth report in which the Committee has asked for the publication of Selected Decisions.

29. The Committee has ascertained that the documentary records which have not yet appeared in the Official Records of the Committee are not all available on the Web site of the United Nations Office of the High Commissioner for Human Rights. In particular, many Views of the Committee under the Optional Protocol are not available. The Committee asks that efforts be made to ensure that all material not yet published in the Official Records be put on the database, and that funds be sought to complete this work as soon as possible. It asks that the summary records include the lists of issues in relation to the discussion of States parties reports.

L. Future meetings of the Committee

30. At its sixty-third session, the Committee confirmed the following schedule of meetings for 1999: the sixty-fifth session, to be held at United Nations Headquarters from 22 March to 9 April 1999; the sixty-sixth session, at the United Nations Office at Geneva from 12 to 30 July 1999, and the sixty-seventh session, at the United Nations Office at Geneva from 18 October to 5 November 1999.

M. Adoption of the report

31. At its 1698th and 1699th meetings, on 30 and 31 July 1998, the Committee considered the draft of its twenty-second annual report, covering its activities at the sixty-first, sixty-second and sixty-third sessions, held in 1997 and 1998. The report, as amended in the course of the discussion, was adopted unanimously.

Notes

[1] The Covenant continues to apply by succession in two other States, Kazakhstan and Tajikistan. See note d/ to annex I. See also note e/ to annex I.

[2] Jamaica withdrew from the Optional Protocol, with effect from 23 January 1998. Trinidad and Tobago withdrew from the Optional Protocol and re-acceded subject to reservations with effect from 26 August 1998. The effect of the reservations will be considered by the Committee in due course in the context of the reporting process or in proceedings under the Optional Protocol.

II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT: OVERVIEW OF PRESENT WORKING METHODS

32. The present chapter is aimed at providing a concise and up-to-date overview of the modifications recently introduced by the Committee in its working methods under article 40 of the Covenant. A detailed account of the methods of work applied by the Human Rights Committee for the consideration of reports submitted by States parties appears in the Committee's annual reports for the years 1995-1996 and 1996-1997 (A/51/40, paras. 26-34; A/52/40, paras. 31-39).

A. Recent decisions on procedures

33. The Committee's annual report for the year 1996-1997 (A/52/40, paras. 32-39) included an account of the Committee's recent discussions and decisions relating to working methods, and a summary of the informal meeting on procedures held on 27 and 28 July 1996. A report of that meeting was later published as document CCPR/C/133.

34. At the sixtieth session, in July 1997, the Chairperson established a task force to consider all procedures in relation to article 40. A document on procedure for the consideration of initial and periodic reports under article 40 of the Covenant was adopted at the sixty-second session and is annexed to the present report (annex VIII). Draft consolidated guidelines for State reports under the Covenant has been prepared and will be considered at the sixty-fourth session.

B. Links to other human rights treaties and treaty bodies

35. The Committee keeps itself informed about the work of the other treaty bodies. For the sake of the many States parties to several human rights covenants and conventions, the Committee seeks to avoid conflict and to harmonize its work with that of other treaty bodies when possible.

36. The Chairperson of the Committee participated in the eighth and ninth meetings of Chairpersons of the Human Rights Treaty Bodies. The outcome of the eighth meeting was discussed at the sixty-first session and the outcomes of both meetings were discussed at the sixty-second session of the Committee. At the sixty-second session, the Committee agreed that it should contribute to the fiftieth anniversary of the Universal Declaration of Human Rights by requesting that specific work be undertaken to facilitate the universal ratification of United Nations human rights covenants and conventions, and especially the two Covenants, which constitute, together with the Universal Declaration of Human Rights, the International Bill of Human Rights. Such work could, in particular, seek to examine and eliminate any obstacles to universal ratification and bring into close harmony the work of the treaty bodies and the reporting obligations of States in respect of overlapping mandates.

37. Other human rights treaties are relevant in the context of reservations. There is particular concern about States that have made reservations to the Convention on the Elimination of All Forms of Discrimination against Women with regard to obligations that they had accepted without reservation under the International Covenant on Civil and Political Rights. In this context, while pressing States to clarify their position with regard to the rights at issue, the Committee reaffirms that a reservation to another human rights treaty cannot in any way diminish the obligations of a State under the Covenant.

38. At its 1574th meeting (fifty-ninth session), on 3 April 1997, Ms. Angela King, Assistant Secretary-General, Special Adviser on Gender Issues and Advancement of Women, appeared before the Committee to discuss various issues relating to a furthering of the cooperation between the Secretariat's Division for the Advancement of Women and the Committee. Following these discussions, representatives of the Division were invited to attend the meeting of the pre-sessional working group on article 40 at the sixty-second session and provided Committee members with information stemming from activities of the Committee on the Elimination of Discrimination against Women.

39. On 20 July 1998, during the Committee's sixty-third session, Ms. King wrote to the Chairperson to ask that the Committee consider a draft statement on the indivisibility of human rights and the centrality of gender awareness to the full enjoyment of these rights, with a view to adopting it as a joint statement of the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women. This was proposed by the Committee on the Elimination of Discrimination against Women as a contribution of the treaty bodies to the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights. During its sixty-third session the Committee started consideration of the statement and proposal, and decided to continue consideration thereof at the sixty-fourth session.

C. Other issues relating to methods of work under article 40

40. Rules of procedure adopted on 1 August 1997 have now been published as document CCPR/C/3/Rev.5 of 11 August 1997.

III. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

41. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant. In connection with this provision, article 40, paragraph 1, of the Covenant requires States parties to submit reports on the measures adopted and the progress achieved in the enjoyment of the various rights and on any factors and difficulties that may affect the implementation of the Covenant. States parties undertake to submit reports within one year of the entry into force of the Covenant for the State party concerned and thereafter whenever the Committee so requests. In order to assist States parties in submitting reports, the Human Rights Committee approved, at its second session, general guidelines regarding the form and contents of initial reports (see CCPR/C/5/Rev.2) stemming from the work of the Committee. The Committee's later decisions concerning guidelines for the submission of reports under article 40 are summarized in the previous report (A/52/40, paras. 46-47). As mentioned in chapter II above (para. 34), consolidated guidelines for State reports under the Covenant are now in preparation.

A. Reports submitted by States parties under article 40 of the Covenant

42. During the period covered by the present report, the Committee received 14 initial or periodic reports. Initial or periodic reports were submitted by Argentina, Cambodia, Chile, Costa Rica, Gabon, Israel, Kuwait, Kyrgyzstan, Lesotho, Mongolia, Peru, the Republic of Korea, the former Yugoslav Republic of Macedonia and Venezuela.

B. Observations of States parties on the Committee's concluding observations

43. At the sixty-first session, the Committee took note of a note dated 6 May 1997 from the Republic of Georgia including a comment on the Committee's concluding observations (A/52/40, paras. 250-263) and informing the Committee about steps taken to put those observations into effect and to disseminate them in Georgia.

44. During the Committee's sixty-third session, on 20 July 1998, comments were received from Peru on the Committee's concluding observations (A/52/40, paras. 146-170). These were referred to the working group of the sixty-fourth session for examination.

IV. STATES THAT HAVE NOT COMPLIED WITH THEIR OBLIGATIONS UNDER ARTICLE 40

45. States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. Those reports are the basis of the dialogue between the Committee and States parties, and any delay in their submission means an interruption of that process. However, serious delays have been noted since the establishment of the Committee. At its sixtieth session, in July 1997, the Committee decided to request nine States parties whose initial reports were overdue (Albania, Angola, Benin, Cambodia, Côte d'Ivoire, Israel, Grenada, Seychelles and the former Yugoslav Republic of Macedonia) to submit those reports for consideration at the sixty-second session, in March 1998. Three of these States (Cambodia, Israel and the former Yugoslav Republic of Macedonia) submitted reports in accordance with the Committee's request.

46. Owing to a serious reduction in the Secretariat staff assigned to work for the Committee, it was not possible to follow the Committee's established practice of organizing meetings with States whose reports were overdue for more than three years during the period covered by the present report.

47. The Committee noted with regret that 86 States parties to the Covenant, or nearly two thirds of all States parties, were in arrears with their reports. This is a matter of serious concern, as the failure of States to submit reports prevents the Committee from performing its monitoring functions under article 40 of the Covenant. The Committee has decided to list in its annual report to the General Assembly the States parties that have a report more than five years overdue, as well as those that have not submitted reports requested by a special decision of the Committee. The Committee wishes to reiterate that these States are in serious default of their obligations under article 40 of the Covenant.

States parties that have reports overdue more than five years or that have not submitted a report requested by a special decision of the Committee

State party	Type of report	Date due	Years overdue
Syrian Arab Republic	Second	18 August 1984	14
Gambia	Second	21 June 1985	13
Suriname	Second	2 August 1985	13
Kenya	Second	11 April 1986	12
Mali	Second	11 April 1986	12
Guyana	Second	10 April 1987	11
Democratic People's Republic of Korea	Second	13 December 1987	11
Equatorial Guinea	Initial	24 December 1988	10
Central African Republic	Second	9 April 1989	9

State party	Type of report	Date due	Years overdue
Trinidad and Tobago	Third	20 March 1990	8
Togo	Third	31 December 1990	7
Somalia	Initial	23 April 1991	7
Nicaragua	Third	11 June 1991	7
Viet Nam	Second	31 July 1991	7
Democratic Republic of the Congo	Third	31 July 1991	7
Portugal	Third	1 August 1991	6
Netherlands	Third	31 October 1991	6
Saint Vincent and the Grenadines	Second	31 October 1991	6
Australia	Third	12 November 1991	6
San Marino	Second	17 January 1992	6
Panama	Third	31 March 1992	6
Rwanda	Third Special	10 April 1992 31 January 1995	6
Madagascar	Third	31 July 1992	6
Croatia	Initial	7 October 1992	5
Grenada	Initial	5 December 1992	5
Albania	Initial	3 January 1993	5
Philippines	Second	22 January 1993	5
Benin	Initial	11 June 1993	5
Côte d'Ivoire	Initial	25 June 1993	5
Angola	Initial/ Special	31 January 1994	4

48. The Committee notes that in the period under review, two States parties (Ecuador and the Libyan Arab Jamahiriya) whose reports had been listed for consideration at the sixty-second and sixty-third sessions respectively had notified the Committee a short time before the session that they could not take part in it. The Committee expressed its concern that the failure of States to cooperate in the reporting process and their withdrawal at a late stage was hampering the Committee in the effective discharge of its functions.

V. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

49. The following sections, arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports, contain the concluding observations adopted by the Committee with respect to the States parties' reports considered at its sixty-first, sixty-secord and sixty-third sessions. The Committee's decision on the format of the present chapter can be found in its annual report for the year 1993-1994 (A/49/40).

A. Senegal

50. The Committee considered the fourth periodic report of Senegal (CCPR/C/103/Add.1) at its 1618th and 1619th meetings, on 21 and 22 October 1997, and at its 1640th meeting, on 5 November 1997, adopted the following observations.

1. Introduction

51. The Committee expresses its appreciation for the opportunity to resume its dialogue with the State party. While noting that the fourth report has been presented in a timely manner and provides some useful information on the constitutional and legislative norms applicable in Senegal in the field of human rights, the Committee reiterates its previous comment on the State party's third periodic report, regretting the lack of information in the document on implementation of the provisions of the Covenant in practice. At the same time, the Committee appreciates the detailed and updated information provided orally by the delegation in the course of its consideration of the report.

2. Factors and difficulties affecting the implementation of the Covenant

52. The Committee notes with concern that continuing violence and unrest in the region of Casamance have resulted in persistent violations of rights guaranteed by the Covenant.

53. The Committee further notes the continued existence in the State party of laws and customs, in particular those affecting equality between men and women, which impede the full observance of the Covenant.

3. Positive aspects

54. The Committee observes with satisfaction that the State party has strengthened the status of the Senegalese Human Rights Committee (law of 10 March 1997), and in particular has ensured participation by non-governmental organizations, as well as its capacity to act as an advisory body for dialogue, consultation and promotion of human rights. The activities of the ombudsman (médiateur) are also welcomed.

55. The Committee appreciates the creation of the Interministerial Committee on Human Rights and Humanitarian International Law (Comité inter-ministériel des droits de l'homme et du droit international humanitaire) by Decree of 2 July 1997, as well as the recent change in the Electoral Code leading to the establishment of a body to monitor and supervise elections.

56. The Committee further welcomes the efforts to overcome the problem of illiteracy and the activities of the Ministry on Woman, Children and Family which has initiated plans of action in collaboration with non-governmental organizations. The Committee also appreciates efforts made to enhance the public's awareness of women's issues.

57. In the field of law reform, the Committee notes with appreciation the criminalization of torture in the Penal Code.

58. In the context of the right to remedies for violations of human rights, the Committee notes with interest that an individual may appeal to the Constitutional Council to challenge the constitutionality of proceedings before the Council of State or the Court of Cassation.

The Committee welcomes the willingness of the Government of Senegal to comply with the Views of the Committee in the case of Koné v. Senegal (Communication 386/1989) and to provide for a remedy acceptable to the author, namely, an award of 500,000 francs, a plot of land and adequate medical treatment, all implemented just before the consideration of the report before the Committee.

59. In relation to the State party's accession to various international human rights instruments, the Committee welcomes its acceptance of the primacy of international human rights standards over national legislation.

4. Subjects of concern and the Committee's recommendations

60. In the context of events in Casamance, the Committee expresses concern at allegations it has received of indiscriminate killing of civilians by the army and police, of disappearances, and of ill-treatment and use of torture against persons suspected of being supporters of the Mouvement des forces démocratiques de Casamance (MFDC). Therefore:

> The Committee recommends that measures be taken to ensure the full observance of articles 6 and 7 by military personnel and police, and the effective implementation in practice of article 7 of the Covenant vis à vis people suspected of being MFDC sympathizers. The Committee also recommends that, especially because of the distance from the capital and the region's proximity to neighbouring States, consideration be given to establishing an independent mechanism to monitor and investigate human rights abuses in Casamance, and that persons found responsible for violations of rights be brought to justice and the victims compensated. The Committee also recommends further training in human rights for all security and law enforcement personnel.

61. The Committee regrets that certain traditional cultural attitudes with respect to women are not compatible with their dignity as human beings and continue to hamper their equal enjoyment of rights embodied in the Covenant. The practice of polygamy, which is incompatible with articles 2(1), 3 and 26 of the Covenant, is of particular concern. The Committee continues to be especially disturbed at the persistent custom of female genital mutilation, which violates articles 6 and 7 of the Covenant, and the high rate of maternal mortality which results from that practice, from early childbirth and from the strict prohibition of abortion. It recommends that judges and lawyers make use of ordinary criminal law provisions to deal with instances of female genital mutilation until a specific law for this offence, the adoption of which the Committee strongly supports, is enacted. In this regard:

> The Committee encourages the State party to launch a systematic campaign to promote popular awareness of persistent negative attitudes towards women and to protect them against all forms of discrimination; it urges the State party to abolish practices prejudicial to women's health and to reduce maternal mortality. The Committee recommends that the State party indicate, in its next periodic report, the outcome of proposals on the matter of polygamy made by the Working Group on the National Action Plan for Senegalese Women (1996-2000). In the light of these concerns, the Committee further recommends that the State party bring its legislation, including family and inheritance laws, into conformity with articles 2(1), 3, 6, 7, 23 and 26 of the Covenant.

62. Although the Penal Code provides legal redress for offences such as assault, the Committee is concerned at the persistence of violence against women, including spousal abuse. Therefore:

> The Committee recommends that specific attention be given in the law to the problem of domestic violence, and stresses the need for information and education campaigns to prevent and combat any form of physical violence against women.

63. The Committee notes that the criteria enabling a judge to hold an arrested person in pre-trial detention are not defined under the law. It expresses its concern at the extensive discretionary power given to judges in such situations. Furthermore, in cases of offences against the security of the State, the Committee notes with concern the provisions of the Code of Criminal Procedure allowing special detention in police custody, and in particular allowing the Public Prosecutor to authorize extension of the length of detention.

The Committee is also concerned about the lack of access to counsel by detainees. Therefore:

> The Committee recommends that the State party set out in its Code of Criminal Procedure criteria establishing grounds on which persons awaiting trial may be held in detention which are in conformity with article 9 (3) of the Covenant. Furthermore, the Committee recommends the repeal of provisions dealing with special detention in cases of offences against the security of the State, or the provision of further legal safeguards in such cases.

64. Although measures have been taken to improve the condition of prisoners, the Committee expresses its concern at recurring problems of overcrowding and poor health and sanitary conditions in many prisons, which are incompatible with article 10, paragraph 1, of the Covenant. Therefore:

> The Committee recommends that measures be taken to reduce overcrowding and to upgrade prison facilities as quickly as possible.

65. The Committee is concerned about the lack of full enjoyment of freedom of association, in particular the fact that foreign workers are barred from holding official positions in trade unions, and that trade unions may be dissolved by the executive. Therefore:

> The Committee recommends that the State party take all necessary measures to permit foreign workers to hold official positions in trade unions, and provide guarantees and legal redress to trade unions, in accordance with article 22 of the Covenant, against dissolution by administrative measures.

66. The Committee expresses its concern at the statement in the report that "there are no minorities in Senegal", and at the failure of the State party to provide information on the recognition and protection of religious and ethnic minorities in Senegal. In that regard:

> The Committee recommends that the State party take legal and practical steps to recognize and protect religious and ethnic minorities, with a view to ensuring the rights guaranteed under article 27 of the Covenant. The Committee further suggests that the Government of Senegal take into consideration the Committee's General Comment No. 23 on this matter.

67. The Committee recommends that full and comprehensive information on the implementation of the provisions of the Covenant in law and in practice, as well as on factors and difficulties which affect its implementation, be incorporated in the State party's next periodic report.

68. The Committee draws the attention of the Government of Senegal to the provisions of the guidelines regarding the form and contents of periodic reports from States parties, and requests that its next periodic report, due on 4 April 2000, contain material which responds to all the present concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Senegal and in all recognized languages.

B. Jamaica

69. The Committee examined the second periodic report of Jamaica (CCPR/C/42/Add.15) at its 1622nd to 1624th meetings, on 23 and 24 October 1997, and at its 1641st meeting, on 5 November 1997, adopted the following observations.

1. Introduction

70. The Committee welcomes the second periodic report submitted by the State party and appreciates the delegation's readiness to resume its dialogue with the Committee, although it deplores the delay of more than 15 years in reporting. The Committee regrets that while the report provided useful information on the general legislative framework of Jamaica, it

did not address consistently the actual state of implementation of the Covenant, nor did it always address, on an article-by-article basis, difficulties encountered in the course of its implementation.

2. Factors and difficulties affecting the implementation of the Covenant

71. The Committee is aware of the difficult economic situation of Jamaica during much of the period covered by the second periodic report, as well as of the high rate of crimes of violence.

3. Positive aspects

72. The Committee appreciates that in the envisaged review of the Jamaican Constitution, any provisions in contradiction with the Covenant which might appear from the application of section 24 of the present Constitution would be eliminated. It expresses the hope that the recommendation of the Constitutional Commission to the effect that the new Bill of Rights should explicitly refer to prohibition of discrimination on the grounds of sex will be implemented as part of this legislation.

73. The Committee welcomes the establishment in 1993 of the Police Public Complaints Authority, which allows Jamaican citizens to seek redress if they have been abused by police officers, and the requirement for this body to report publicly on its activities. The Committee further welcomes the establishment of a Public Commission of Inquiry into the prison disturbances which occurred in several correctional facilities in August 1997, resulting in the loss of life of 16 inmates. At the same time, the Committee wishes to emphasize that the results of the investigations of and the action taken by these bodies should be disseminated as widely as possible and made available to the Committee.

74. The Committee appreciates that the imposition of capital punishment has been reviewed by the Jamaican authorities during the period under review, leading to the adoption of the Offences against the Person (Amendment) Act, 1992 and the concomitant adoption of procedures for legal representation, classification of offences, minimum periods to be served and an appellate system.

75. The Committee appreciates that on the basis of the classification of capital offences under the Offences against the Person (Amendment) Act, judicial decisions and a number of Views adopted by the Committee under the Optional Protocol, numerous death sentences were commuted, leading to a considerable reduction in the number of inmates under sentence of death.

76. The Committee welcomes the fact that draft legislation is currently being finalized with a view to improving the system of legal aid in Jamaica: under the proposed system, legal aid would be extended to all aspects of criminal proceedings and appeals, to constitutional motions, to prerogative writs and to the writ of habeas corpus, as well as to other civil proceedings. The Committee expresses the hope that the new Legal Aid Bill will be passed and will enter into force as soon as possible, and that sufficient resources will be allocated for its effective operation.

77. The Committee welcomes the current implementation of a programme for the modernization and the rebuilding of the prison estate. On the basis of the information provided by the delegation, such projects as have already been approved and are being implemented, such as the long-overdue modernization of St. Catherine District Prison and the building of a facility to replace the outdated Tower Street Adult Correctional Centre, will improve conditions of detention, overcrowding of prisons and other unsatisfactory conditions. The Committee welcomes the intention expressed by the delegation to amend administrative regulations listing objects that inmates, whatever their sentence, may keep in their possession, to the effect that a prisoner will be allowed to retain in his cell correspondence and will be assured access to legal documents relating to his case.

4. Subjects of concern and the Committee's recommendations

78. The Committee notes with the utmost regret Jamaica's notification of denunciation of the Optional Protocol. Unless withdrawn, this denunciation will become effective on 23 January 1998. The Committee affirms that:

(a) Views of the Committee already adopted on communications under the Optional Protocol will retain their validity and will require implementation;

(b) Communications already pending, or submitted before 23 January 1998, will not be affected by Jamaica's notification and will be considered by the Committee in due course;

(c) Jamaica will continue to be bound by the provisions of the Covenant, and be subject to other monitoring functions of the Committee.

79. The Committee considers that the Governor-General's notification of 7 August 1997, unilaterally imposing timetables for the examination of communications under the Optional Protocol by the Committee, cannot be invoked as justification for any measure that would deviate from the Covenant, the Optional Protocol or requests by the Committee for interim measures of protection.

80. The Committee is concerned at the incidence of domestic violence against women. Therefore:

> The Committee recommends that increased efforts be made to sensitize the population to the need to respect women's dignity and that legislation should ensure ready access to remedies for violations of women's human rights, and that social and educational programmes be pursued to ensure the upholding of womens' rights by way of abolishing all discrimination.

81. The Committee notes with concern that serious deficiencies persist in the administration of the State party's prison system. These include conditions of imprisonment which the Committee considers incompatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners and article 10 of the Covenant; attention should be paid to the lack of sanitary facilities, lighting in cells, adequate diet, adequate training of prison staff, adequate facilities for visits of convicted prisoners (by relatives and by their legal representatives) and recurrent ill-treatment of inmates. In this regard:

> Effective means of redress, without reprisals, should be available for detainees and prisoners regarding complaints of ill-treatment by police or prison warders; the Boards of Visitors should examine all such complaints and report to the prison governor. The Committee recommends that an independent prison inspectorate be established which would report publicly on its findings.

82. While noting current endeavours to reform the system of legal aid, the Committee remains concerned about the state of current legal aid representation. This is particularly disturbing for cases involving capital punishment, where unavailability of legal aid amounts to a violation of article 6 juncto article 14 of the Covenant. Therefore:

> The Committee urges the State party to monitor on a continuing basis the availability and quality of legal aid representation, and to ensure that experienced counsel is assigned to individuals accused of capital and other serious offences. The Committee emphasizes that adequate remuneration of lawyers acting under the Poor Prisoners' Defence Act at all stages of arrest and subsequent proceedings would greatly assist in providing a proper defence of clients in a proper manner. Legal aid should be available for obtaining the presence of defence witnesses for the purposes of trials.

83. The Committee is deeply concerned about the fact that the Flogging Regulation Act, 1903 and the Crime (prevention of) Act, 1942 are still in force, which provide for and regulate corporal punishment both as a penalty for certain crimes and as a penalty for breach of prison rules of other regulations. In this regard:

> The Committee recommends that both Acts be repealed, as they are contrary to article 7 of the Covenant.

84. The Committee regrets the lack of published information about the alarmingly high incidence of the use of firearms by the police and security forces. Therefore:

> The Committee urges the State party to investigate all such incidents and to make available to the public the outcome of such investigations; in particular, an inquiry should be completed on the Tivoli Gardens incident in March 1997 and its results published.

85. With respect to the system of administration of justice and the conduct of criminal trials, especially in capital cases, the Committee is concerned that, while there has recently been some progress in reducing delays in hearings of cases at all stages of judicial procedure between the initial charge and the final appeal, further efforts should be made to reduce delays in the hearing of cases. This applies in particular to the delays between dismissal of capital appeals by the Court of Appeal of Jamaica and the hearing of a petition for special leave to appeal by the Judicial Committee of the Privy Council. Therefore:

> The Committee recommends that appropriate legal provisions be adopted to ensure prompt issue of a reasoned judgement by the Court of Appeal.

86. The Committee is concerned that the State party has failed to adhere strictly to article 9, paragraph 3, of the Covenant and to domestic statutory time limits on pre-trial detention. Therefore:

> The Committee urges that such time limits be closely observed, so as to reduce the opportunity for beatings and other forms of police brutality such as have been alleged.

87. The Committee is concerned that not all cases of death at the hands of the police or security forces are subject to a coroner's inquest. Therefore:

> The Committee emphasizes that all such deaths should be inquired into and that inquests ordered under the Coroners Act which are adjourned pending the consideration by the Department of Public Prosecutions of potential charges must be reopened if no prosecution ensues.

88. The Committee has noted the delegation's information that wire-tapping remains an exceptional administrative measure. It considers that current administrative rules are insufficient to secure compliance with article 17 of the Covenant. Therefore:

> The Committee urges the Jamaican authorities either to discontinue wire-tapping or to adopt precise legislation governing its administration, which should include appropriate mechanisms for judicial oversight.

89. The Committee draws the attention of the Government of Jamaica to the provisions of the guidelines regarding the form and contents of periodic reports from States parties and requests that its next periodic report, due on 7 November 2001, contain material which responds to all the present concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Jamaica.

C. Iraq

90. The Committee considered the fourth periodic report of Iraq (CCPR/C/103/Add.2) at its 1626th and 1627th meetings, on 27 October 1997, and at its 1640th meeting, on 5 November 1997, adopted the following observations.

1. Introduction

91. The Committee welcomes the State party's fourth periodic report, and notes its timely submission and the willingness of Iraq to have a continued dialogue with the Committee. The Committee regrets that while the report provided information on Iraq's legislative framework, it did not deal with the actual state of implementation of domestic laws and of

the Covenant, nor with the difficulties encountered in the course of their implementation. The presence of a delegation from the capital, which answered questions asked by members of the Committee and provided clarification on the situation in Iraq, is also welcomed by the Committee.

2. Factors and difficulties affecting the implementation of the Covenant

92. The Committee recognizes that eight years of war with the Islamic Republic of Iran and the conflict following Iraq's invasion of Kuwait caused the destruction of part of the country's infrastructure and considerable human suffering, and produced a very difficult economic and social situation in Iraq.

93. The Committee notes that the effect of sanctions and blockades has been to cause suffering and death in Iraq, especially to children. The Committee reminds the Government of Iraq that, whatever the difficulties, the State party remains responsible for implementing its obligations under the Covenant.

3. Positive aspects

94. The Committee welcomes the adoption of Revolutionary Command Council Decree No. 91 of 1996, which repeals the application of the death penalty and amputation in certain cases.

95. The Committee welcomes the repeal of Revolutionary Command Council Decree No. 111 of 1990, which exempted from prosecution certain "crimes of honour" involving the killing of female relatives.

4. Subjects of concern and the Committee's recommendations

96. The Committee is deeply concerned that all government power in Iraq is concentrated in the hands of an executive which is not subject to scrutiny or accountability, either politically or otherwise. It operates without any safeguards or checks and balances designed to ensure the proper protection of human rights and fundamental freedoms in accordance with the Covenant. This appears to be the most significant factor underlying many violations of Covenant rights in Iraq, both in law and in practice.

97. The Committee regrets that many of its questions relating to allegations of serious violations of rights were not answered. In particular, the Committee notes with grave concern reports from many sources concerning the high incidence of summary executions, arbitrary arrests and detention, torture and ill-treatment by members of security and military forces, disappearances of many named individuals and of thousands of people in northern Iraq and in the southern marshes, and forced relocations. In this respect, the Committee expresses its regret at the lack of transparency on the part of the Government in responding to these concerns. The Committee also notes the statement by the delegation that a non-governmental committee has been established to deal with disappearances, and regrets that it was not able to obtain information on its functions or on its powers to investigate cases of involuntary disappearance, to bring those found responsible to justice and to otherwise prevent and combat disappearances in Iraq. Therefore:

> The Committee recommends that all allegations mentioned above be fully, publicly and impartially investigated, that the results of such investigations be published and that the perpetrators of those acts be brought to justice. Information on the powers, functions and activities of the committee responsible for dealing with disappearances should be provided in the State party's next periodic report.

98. The Committee regrets that temporary decrees adversely affecting the implementation of certain Covenant rights have recently been enacted by the Revolutionary Command Council. In addition, the Committee expresses its concern that certain provisions of these decrees, which the State party has sought to justify on the ground that they are provisional, are incompatible with certain non-derogable Covenant rights, such as the right to life, the prohibition of torture and the principle of non-retroactivity of criminal laws. Therefore:

> The Committee recommends that a thorough review of existing temporary laws and decrees be undertaken with a view to ensuring their compliance with the provisions of the Covenant. In this regard, the Committee stresses that Covenant rights may be derogated from only in accordance with article 4 of the Covenant.

99. The Committee also notes with great concern the increase in the categories of crimes punishable by the death penalty, pursuant to Revolutionary Command Council Decrees No. 13 of 1992, No. 9 of 1993, Nos. 86, 95, 179 and 118 of 1994, and No. 16 of 1995, and that the new categories include non-violent and economic infringements. These measures are incompatible with Iraq's obligations under the Covenant to protect the right to life. Therefore:

> The Committee recommends that Iraq abolish the death penalty for crimes which are not among the most serious crimes, in accordance with article 6, paragraph 2, of the Covenant, and that total abolition of the death penalty be considered. In this regard, the State party should give careful consideration to the observations in the Committee's General Comment No. 6 on the right to life, and in particular those concerning the restricted scope of the expression "most serious crimes".

100. The Committee expresses concern that Revolutionary Command Council Decree No. 115 of 25 August 1994 violates the provisions of article 6, paragraph 2, of the Covenant, which restricts the application of the death penalty to the "most serious crimes", by stipulating that the death penalty will be imposed on persons who have evaded military service several times, and that it contains retroactive provisions, contrary to article 15 of the Covenant. The Committee therefore recommended that:

> The application of this decree should be suspended without delay and steps should be taken to repeal it.

101. The Committee is deeply concerned that Iraq has resorted to the imposition of cruel, inhuman and degrading punishments, such as amputation and branding, which are incompatible with article 7 of the Covenant. Similarly, the Committee is deeply concerned by Revolutionary Command Council Decree No. 109 of 18 August 1994, which stipulates that any person whose hand has been amputated for a crime thus punishable by law shall be branded between the eyebrows with an "X" symbol, by the application of this decree retroactively to persons whose hands have already been amputated, and by the explanation given by the delegation that this punishment was imposed to distinguish convicted offenders from persons mutilated in the war. In this regard:

> The imposition of such punishments should cease immediately, and all laws and decrees providing for their imposition, including Revolutionary Command Council Decree No. 109 of 1994, should be revoked without delay.

102. The Committee expresses concern about the continued operation of family and inheritance laws which are incompatible with the principle of gender equality under articles 2, paragraph 1, 3, 23 and 26 of the Covenant. Therefore:

> Steps should be taken to promote and ensure full equality between men and women in the political, economic, social and cultural life of the country, and to eliminate all forms of legal and de facto discrimination against women.

103. The Committee notes with concern reports of arbitrary restrictions imposed by the authorities on the right to freedom of movement within Iraq and freedom to leave the territory of the State party, in breach of Iraq's obligations under article 12 of the Covenant. Therefore:

> Measures should be taken to ensure that article 12 is complied with and, among other things, that administrative costs for the issue of passports be reduced.

104. The Committee further notes with concern that special courts, which may impose the death penalty, do not provide for all procedural guarantees required by article 14 of the Covenant, and in particular the right of appeal. It also notes that in addition to the list of offences which are under the jurisdiction of the special courts, the Minister of the Interior and the Office of the President of the Republic have discretionary authority to refer any other cases to these courts. In that regard:

> Courts exercising criminal jurisdiction should not be constituted other than by independent and impartial judges, in accordance with article 14, paragraph 1, of the Covenant. The jurisdiction of such courts should be strictly defined by law and all procedural safeguards protected by article 14, including the right of appeal, should be fully respected.

105. With respect to article 19 of the Covenant on the right to freedom of expression, the Committee is concerned about severe restrictions on the right to express opposition to or criticism of the Government or its policies. The Committee is also concerned that the law imposes life imprisonment for insulting the President of the Republic, and in certain cases death. It also imposes severe punishments for vaguely defined crimes which are open to wide interpretation by the authorities, such as writings detrimental to the President. Such restrictions on freedom of expression, which effectively prevent the discussion of ideas or the operation of political parties in opposition to the ruling Ba'ath party, constitute a violation of articles 6 and 19 of the Covenant and impede the implementation of articles 21 and 22 of the Covenant, which protect the rights to freedom of peaceful assembly and association. Therefore:

> Penal laws and decrees which impose restrictions on the rights to freedom of expression, peaceful assembly and association should be amended so as to comply with articles 19, 21 and 22 of the Covenant.

106. The Committee expresses concern about restrictions, prohibitions and censorship imposed on the creation and functioning of independent broadcasting media, as well as on the dissemination and broadcasting of foreign media, which are not in conformity with the requirements of article 19, paragraph 3, of the Covenant. Therefore:

> Laws and decrees dealing with the press and other media should be amended to comply with article 19, paragraph 2, of the Covenant, which protects the right to freedom of expression, including the "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of (one's) choice".

107. The Committee is concerned that under article 38 (c) of the Constitution, the members of the Revolutionary Command Council are not elected by universal and equal suffrage. This is incompatible with the right of citizens to take part in the conduct of public affairs, under article 25 (a) and (b) of the Covenant. Therefore:

> The Committee recommends that steps be taken with a view to ensuring citizens the right and the opportunity to take part in the conduct of public affairs, either directly or through freely chosen representatives.

108. The Committee is also concerned that article 42 of the Constitution gives power to the Revolutionary Command Council to issue laws, decrees and decisions without being subject to independent scrutiny or review to ensure their compliance with the provisions of the Covenant. Therefore:

> Provision should be made to ensure that individuals whose rights may be violated by such laws, decrees or decisions have an effective remedy as required by article 2, paragraph 3, of the Covenant.

109. The Committee expresses concern about the situation of members of religious and ethnic minorities, as well as other groups which are the subject of discrimination in Iraq, in particular the Shi'ite people in the southern marshes and the Kurds. The Committee also regrets the lack of information on the situation of other minorities, such as the Turkeman, Assyrian, Chaldean and Christian minorities, and on the enjoyment of their rights under articles 26 and 27 of the Covenant. In this connection, the Committee calls attention to its General Comment No. 23 (50) on article 27 of the Covenant. Further:

> The Committee recommends that measures be taken to ensure full equality of rights for members of all religious groups as well as ethnic and linguistic minorities, and that information be provided in the State party's next periodic report on the implementation of articles 26 and 27 of the Covenant.

110. The Committee notes with concern reports concerning the difficulties faced by non-governmental organizations in regard to their establishment and functioning. Therefore:

> The Committee recommends that steps be taken without delay to facilitate the establishment and free operation of independent non-governmental organizations, with particular reference to those working in the field of human rights.

111. The Committee draws to the attention of the Government of Iraq the provisions of the guidelines regarding the form and contents of periodic reports from States parties and requests that its next periodic report, due on 4 April 2000, contain material which responds to all the present concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Iraq.

D. Sudan

112. The Committee considered the second periodic report of the Sudan (CCPR/C/75/Add.2) at its 1628th and 1629th meetings, on 28 October 1997, and at its 1642nd meeting, on 5 November 1997, adopted the following observations.

1. Introduction

113. The Committee welcomes the report submitted by the Government of the Sudan. It notes that the dialogue with the high-level delegation of the State party was frank, constructive and open, and it is also grateful for the further documents submitted by the Government on 3 November 1997. This permitted the Committee to have a clearer idea of the situation in the Sudan. While the second periodic report and its annexes contain substantially more information than the previous report, it is nonetheless regretted that the State party did not provide answers to all of the Committee's written list of questions, and that a number of questions asked orally also remained unanswered. The Committee acknowledges receipt of the reports by (a) the independent judicial commission which investigated events in Juba in 1992; and (b) reports by the Advisory Council on Human Rights into allegations of slavery in southern Kordofan and of disappearances.

2. Factors and difficulties affecting the implementation of the Covenant

114. It is noted that the armed conflict originating in the southern part of the Sudan is an obstacle to the full implementation of the Covenant.

115. The lack of reconciliation between different racial, religious, cultural and legal traditions in the north and the south of the Sudan appears to be a factor affecting the implementation of the Covenant.

3. Positive factors

116. In view of the fact that many violations of human rights have been caused in recent years in the context of the internal conflict in the Sudan, the Committee welcomes all initiatives directed towards a peaceful resolution of the conflict, including the Fourteenth Constitutional Decree which provides for measures to implement the Peace Agreement of April 1997; steps taken to give effect to this Decree; and continuing negotiations in Nairobi to resolve the conflict.

117. The Committee welcomes the progressive steps which have been taken to reduce the impact of the declared state of emergency; the existence of committees which are formulating a new Constitution; and steps which are being taken to establish a formal system of pluralistic democracy.

118. In the light of the significant displacement of persons as a result of the internal conflict, the Committee notes the efforts made to resettle such persons and to assist them to return to their places of origin.

4. Subjects of concern and the Committee's recommendations

119. The imposition in the State party of the death penalty for offences which cannot be characterized as the most serious, including apostasy, committing a third homosexual act, illicit sex, embezzlement by officials, and theft by force, is incompatible with article 6 of the Covenant. Moreover, some forms of execution fail to comply with the prohibition against cruel, inhuman or degrading treatment or punishment, especially for women, contained in article 7 of the Covenant. Therefore:

> The death penalty, if used at all, should be applicable only to the most serious crimes, in accordance with article 6, and should be repealed for all other crimes. Any imposition of the death penalty should comply with the requirements of article 7. In its next report, the State party is asked to furnish information on the number of executions which have taken place, the type of offence for which the death penalty has been imposed, and the manner in which the execution has been carried out.

120. Flogging, amputation and stoning, which are recognized as penalties for criminal offences, are not compatible with the Covenant. In that regard, the Committee notes that:

> By ratifying the Covenant, the State party has undertaken to comply with all its articles; penalties which are inconsistent with articles 7 and 10 must be abolished.

121. The Committee is concerned about the high maternal mortality rate in the Sudan, which may be the consequence of early marriage, clandestine abortions and female genital mutilation. The Committee is deeply concerned about the practice of female genital mutilation in the Sudan, particularly because it is practised on female minors, who may suffer the consequences throughout their lives. This practice constitutes cruel, inhuman and degrading treatment and violates articles 7 and 24 of the Covenant. Therefore:

> The State party should forbid, as a matter of law, the practice of female genital mutilation, making it a discrete criminal offence. Social and educational campaigns should be pursued to eliminate the practice.

122. The Committee notes that under customary arrangements a woman's consent to marriage is mediated by a guardian, and that recourse has to be made to the courts to override any prohibition within the family on a woman's choice of a husband. Such restrictions, whether by practice or legislation, are incompatible with articles 3, 16, 23 and 26 of the Covenant. Therefore:

> The State party should repeal all legal provisions hindering women's free choice of spouse, as well as all other rules differentiating between men's and women's rights to marry and within marriage. The Committee is also concerned about the absence of a legal provision on a minimum age for marriage, and strongly recommends that such a provision be adopted forthwith.

123. The Committee is troubled by the number of reports of extrajudicial executions, torture, slavery, disappearances, abductions and other human rights violations from United Nations and non-governmental organizations sources, and by the delegation's assertions that such human rights violations are relatively infrequent. In this connection, the Committee's concern extends to reports of abduction by security forces of children, particularly in the South. It welcomes the State party's declaration that it will investigate any reports of human rights abuses by police, security forces, the Popular Defence Forces or others under its responsibility. The Committee therefore recommends that:

(a) Permanent and independent mechanisms be set up to investigate alleged abuses of power by police, security forces and the Popular Defence Forces;

(b) The methodology of such investigations and their outcome should be made public;

(c) Such investigations should lead to the release of any person improperly detained, with proper compensation, and to disciplinary or criminal proceedings against those found responsible;

(d) The Government of the Sudan should continue to cooperate with United Nations bodies and non-governmental organizations on these matters;

(e) Complete information, including statistics, about such investigations and their outcome should be included in the State party's next periodic report.

124. With respect to liberty and security of the person, the Committee is particularly concerned that the vague and legally undefined concept of "national security", as applied in the Sudan, is inconsistent with the provisions of article 9 of the Covenant and can be used as a basis for arrest and detention of persons without a more specific charge, creating an atmosphere of fear and oppression for anyone critical of the Government. Moreover, the Committee is of the view that the procedures for pre-trial detention described in paragraph 88 of the report allow the National Security Council, chaired by the President of the Republic, the power to detain persons for excessively long periods of time. Therefore:

> The Committee recommends that the concept of "national security" be clearly defined by law and that police and security officers be required to state in writing why a person has been arrested. Such information should be available to the public and should be reviewable by the courts. The provisions of the National Security Act 1994, as amended, allowing detention by the National Security Council, should be repealed.

125. The Committee is concerned that visas for foreign travel may be arbitrarily refused, in contravention of article 12 of the Covenant, that immigration officers may arbitrarily require women to show that a male relative consents to their leaving the Sudan, and that lists of names drawn up by various executive agencies without meeting any defined legal criteria are apparently used to restrict the freedom of movement of persons, including to leave the country. Therefore:

> Any limitations on the freedom of movement must be established by law and be compatible with the provisions of the Covenant. The grounds for restricting a person's freedom of movement, including to leave the country, must comply with the Covenant and should be communicated to the individual promptly after such action is taken and should furthermore be open to prompt judicial review in all cases, including that of national security.

126. The Committee is concerned at reports of inadequate prison conditions and "ghost house" detention centres. It notes that the delegation of the State party admitted that prisons in the Sudan do not conform to international standards and that improvement is necessary. Therefore:

> The Government of the Sudan should bring all places of detention under the control of the Prison Service, take the necessary measures to bring prison conditions into line with article 10 of the Covenant and with the United Nations Standard Minimum Rules for the Treatment of Prisoners, and cooperate with the international community and non-governmental organizations in this regard as appropriate.

127. The Committee is of the view that a system of prompt trial for petty offences may be compatible with the provisions of the Covenant, but continues to be concerned at the system of trial in the Public Order Courts. Therefore:

> Training should be given to judges on appropriate penalties and on procedural safeguards which must be observed. Lashes should be excluded as a punishment, and an appellate procedure should be introduced to review convictions and sentences.

128. The Committee notes the explanation that prosecution of security personnel under the National Security Act 1994, as amended, is restricted when such persons act in the course of their duties. It is also concerned that permission must be obtained for any such prosecution. Therefore:

> Members of the police and security forces should be subject to prosecution and civil suits for abuse of power without any legal restriction; the provisions of the National Security Act 1994, as amended, are inconsistent with that concept and should be repealed. Moreover, statistics on complaints filed, prosecutions, convictions and sentences of members of the police and security forces for abuse of power should be included in the next report. Statistics on the number of requests for compensation and the amount of compensation actually awarded to victims of human rights violations should also be included.

129. The Committee is concerned at the system of licensing the press and other media, and the requirement to register the names and addresses of editors, journalists and printers. The Committee questions the independence of the National Press and Publication Council. Therefore:

> Current laws and decrees should be revised so as to remove all disproportionate limitations on the media, which have the effect of jeopardizing freedom of expression itself.

130. The Committee considers that unnecessary restrictions should be removed from freedom of expression and association. The right of peaceful assembly should be respected by law enforcement officers.

131. The Committee is concerned that there is no recognition in law of the right to use local languages in official communications or administrative or court proceedings, and that religious minorities can be adversely affected by a range of discretionary administrative actions which can include the destruction of schools and educational facilities under town planning regulations. Therefore:

> Emphasis should be given to the need of ethnic and religious minorities, wherever they reside in the Sudan, to pursue and develop their traditions, culture and language, as required by article 27 of the Covenant.

132. The Committee is concerned that in appearance as well as in fact the judiciary is not truly independent, that many judges have not been selected primarily on the basis of their legal qualifications, that judges can be subject to pressure through a supervisory authority dominated by the Government, and that very few non-Muslims or women occupy judicial positions at all levels. Therefore:

> Measures should be taken to improve the independence and technical competence of the judiciary, including the appointment of qualified judges from among women and members of minorities. Training in human rights law should be given to all judges, law enforcement officers and members of the legal profession.

133. The Committee expresses concern at official enforcement of strict dress requirements for women in public places, under the guise of public order and morality, and at inhuman punishment imposed for breaches of such requirements. Restrictions on the liberty of women under the Personal Status of Muslims Act, 1992 are matters of concern under articles 3, 9 and 12 of the Covenant. Therefore:

> It is incumbent on the State party to ensure that all its laws, including those dealing with personal status, are compatible with the Covenant.

134. The Committee regrets the documented cases of official action which interferes with the rights of non-Muslim religious denominations and groups to practise their religion and to carry out peaceful educational activities. Therefore:

> A mechanism should be established to protect minority religious groups from discrimination and action seeking to impede their freedom to teach and practise their religious beliefs.

135. The Committee takes note that the Government of the Sudan appears to consider that participation by citizens in the conduct of public affairs is met by a system of direct democracy. In that regard:

> The Committee emphasizes that the enjoyment of the rights protected by article 25 of the Covenant requires full recognition of freedom of expression and the right to impart and receive ideas of all kinds, including those in opposition to the Government.

136. The Committee draws the attention of the Government of the Sudan to the provisions of the guidelines regarding the form and contents of periodic reports from States parties and requests that its next periodic report, due on 7 November 2001, contain material which

responds to all the present concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of the Sudan.

E. Belarus

137. The Committee considered the fourth periodic report of Belarus (CCPR/C/84/Add.4 and Add.7) at its 1632nd and 1633rd meetings, on 30 October 1997, and at its 1643rd meeting, on 6 November 1997, adopted the following observations.

1. Introduction

138. The Committee welcomes the submission of the fourth periodic report of Belarus, although it notes that the report did not comply with its guidelines concerning the form and content of periodic reports. While regretting that the report lacks sufficient information on the enjoyment of human rights by the people and the implementation of the provisions of the Covenant in law and in practice, the Committee expresses its appreciation to the delegation for the answers it provided to its questions, which to some extent enabled it to obtain a clearer picture of the human rights situation in the country, as well as for the additional written information submitted by the State party.

139. The information submitted by a number of local non-governmental organizations assisted the Committee in its understanding of the human rights situation in the State party.

2. Factors and difficulties affecting the implementation of the Covenant

140. The Committee notes that 20 per cent of the national budget has to be devoted to alleviating the consequences of the Chernobyl disaster, and its particularly harsh effects on children.

3. Positive aspects

141. The Committee notes the various steps taken to improve the situation of women in Belarus, particularly in the labour market, and it welcomes the creation of a Women's Crisis Centre to shelter women victims of rape or domestic violence. The Committee also welcomes the statistics provided by the delegation on the participation of women in the labour force in the private and public sectors, although it regrets that they were not disaggregated so as to reveal the number of women occupying senior posts.

142. The Committee welcomes the decision of the constitutional Court, recognizing the supremacy of the Covenant over domestic law by declaring the retroactive application of a criminal law invalid, in accordance with article 15 of the Covenant.

4. Subjects of concern and the Committee's recommendations

143. The Committee notes with concern that remnants of the former totalitarian rule persist and that the human rights situation in Belarus has deteriorated significantly since the Committee's consideration of the State party's third periodic report in 1992. The Committee notes in particular the persistence of political attitudes that are intolerant of dissent or criticism and adverse to the promotion and full protection of human rights, the lack of legislative limits on the powers of the executive, and the growing concentration of powers, including legislative powers, in the hands of the executive, without judicial control.

144. The Committee notes with concern that the number of crimes for which the death penalty is applicable under the Criminal Code is still very high, and that decrees defining new crimes punishable by death, such as Presidential Decree No. 21 of 21 October 1997, have recently been enacted. The Committee expresses its serious concern at the very high number of death sentences actually carried out. Furthermore, the Committee is also concerned at the secrecy surrounding the procedures relating to the death penalty at all stages. Therefore:

> The Committee recommends that the application of the death penalty be restricted to the most serious crimes, as provided for in article 6, paragraph 2, of the Covenant, and that its abolition be considered by the State party at an early date. To that end the Committee recommends that a thorough review of relevant legislation and decrees be undertaken to ensure their compliance with the Covenant and, in doing so, due account be taken of the Committee's General Comment No. 6 (16) and of the Committee's jurisprudence establishing that the imposition of the death penalty following a trial which does not comply with the requirements of article 14 of the Covenant violates article 6.

145. The Committee expresses its concern about numerous allegations of ill-treatment of persons by police and other law enforcement officials during peaceful demonstrations and on arrest and detention, and about the high number of cases in which police and other security officials resort to the use of weapons. Noting that investigations of such abuses are not conducted by an independent mechanism and that the number of prosecutions and convictions in these cases is very low, the Committee expresses concern that these phenomena may lead to impunity for members of the police and other security officials. Therefore:

> The Committee recommends that, in order to combat impunity, steps be taken to ensure that all allegations of ill-treatment and unlawful use of weapons by security and police officials be promptly and impartially investigated by an independent body, that the perpetrators be prosecuted and punished, and that the victims be compensated. Moreover, in accordance with paragraph 10 of the Committee's General Comment No. 20 (44) on article 7 of the Covenant, "enforcement personnel, (...) police officers and any other persons involved in the custody or treatment of any individual subjected to any form of arrest, detention or imprisonment must receive appropriate instruction and training" concerning the ban on torture and other cruel, inhuman or degrading treatment prohibited by article 7 and the observance of other human rights norms.

146. The Committee notes with concern that pre-trial detention may last up to 18 months, and that the competence to decide upon the continuance of pre-trial detention lies with the Procurator and not with a judge, which is incompatible with article 9, paragraph 3, of the Covenant. The Committee also notes with regret that it has not been clarified in the report or in the course of the discussion whether proceedings before a court challenging the lawfulness of the detention, in accordance with article 9, paragraph 4, of the Covenant, are available to persons thus detained. In this regard:

> The Committee recommends that the laws and regulations relating to pre-trial detention be reviewed as a matter of priority so as to comply with the requirements of article 9 of the Covenant.

147. The Committee further notes with concern that the supervision of places of detention, by virtue of the Law of the Procurator's Office, is under the competence of the Procurator's Office, and that there exists no independent mechanism competent to receive and investigate complaints by detainees. Moreover, the Committee expresses its concern at the overall conditions of detention in prisons, in particular with respect to overcrowding, and wishes to emphasize that the existence of "punishment cells" and the fact that food rations are reduced for detainees placed in such cells, the pressovchiki in prison cells, and the conditions of detention of prisoners sentenced to death, are matters of particular concern. Therefore:

> The Committee recommends that steps be taken to improve prison conditions, including conditions for prisoners on death row, and that in so doing account be taken of the Committee's General Comment No. 21 (44) on article 10 of the Covenant and the United Nations Minimum Standard Rules for the Treatment of Prisoners. The Committee recommends in particular that the practice of "punishment cells", in which particularly harsh conditions are imposed on prisoners, and the use of pressovchiki, are contrary to the Covenant, and recommends that their use be abolished.

148. With respect to the freedom of movement and the right to choose one's residence, the Committee reiterates the concerns it expressed during the consideration of the State party's third periodic report in regard to the retention of the Propiska (residents' permit) system used under the previous regime. The Committee also expresses its concern about the number of unreasonable restrictions imposed by article 5 of the Procedure for Entry to and Exit from the Republic of Belarus by Citizens of the Republic of Belarus Act on the freedom of

citizens to leave the country, some of them being vaguely defined and open to wide interpretation by the authorities and therefore susceptible of abuse, such as possession of State secrets, refusal to discharge obligations, or ongoing proceedings in case of a civil suit. Therefore:

> The Committee recommends that measures be taken to ensure that article 12 of the Covenant is fully complied with, and it urges the State party to repeal the Propiska system.

149. The Committee notes with concern that the procedures relating to tenure, disciplining and dismissal of judges at all levels do not comply with the principle of independence and impartiality of the judiciary. The Committee is particularly concerned that the judges of the Constitutional Court and Supreme Court can be dismissed by the President of the Republic without any safeguards. The Committee also notes with concern the allegation that two judges were dismissed by the President of the Republic on the ground that in the discharge of their judicial functions they failed to impose and collect a fine imposed by the executive. Furthermore, the Committee is concerned at the failure of the President of the Republic to respect the decisions of the Constitutional Court and to observe the rule of law.

150. The Committee also notes with concern the adoption of the Presidential Decree on the Activities of Lawyers and Notaries of 3 May 1997, which gives competence to the Ministry of Justice for licensing lawyers and obliges them, in order to be able to practise, to be members of a centralized Collegium controlled by the Ministry, thus undermining the independence of lawyers. In this regard:

> The Committee stresses that the independence of the judiciary and the legal profession is essential for a sound administration of justice and for the maintenance of democracy and the rule of law. The Committee urges the State party to take all appropriate measures, including review of the Constitution and the laws, in order to ensure that judges and lawyers are independent of any political or other external pressure. The attention of the State party is drawn in this connection to the 1985 Basic Principles on the Independence of the Judiciary and the 1990 Basic Principles on the Role of Lawyers, adopted by the United Nations General Assembly.

151. The Committee expresses concern about reports of arbitrary infringements of the right to privacy, in particular of abuses by the authorities in regard to wire-tapping and house searches. Moreover, the Committee notes with concern that, under article 20 of the Law on Investigative Activities, decisions on the legality of such activities are in the competence of the General Procurator, without a court review. Therefore:

> The Committee recommends that investigative activities affecting the right to privacy be conducted in accordance with article 17 of the Covenant, and that the competence to decide upon requests for and the legality of such activities be transferred to the courts.

152. The Committee notes the statement of the delegation of Belarus that legislation on conscientious objection to military service is envisaged. In this regard:

> The Committee recommends that a law exempting conscientious objectors from compulsory military service and providing for alternative civil service of equivalent length be passed at an early date in compliance with article 18 of the Covenant and the Committee's General Comment No. 22 (48).

153. The Committee expresses its deep concern about the numerous and serious infringements of the right to freedom of expression. In particular, the fact that most publishing, distribution and broadcasting facilities are State owned, and that editors-in-chief of State-supported newspapers are State employees, effectively exposes the media to strong political pressure and undermines its independence. The many restrictions imposed on the media, in particular the vaguely defined offences, are incompatible with article 19, paragraph 3, of the Covenant. The Committee also notes that as a result of the provisions of Presidential Decree No. 218 of 18 March 1997, the freedom to import and export information, either through the print or audio-visual media, is severely restricted. Furthermore, the Committee expresses concern about reports of harassment and intimidation of local and foreign journalists by the authorities and the denial of access to public broadcasting facilities by political opponents to the Government. Therefore:

> The Committee urges the State party to take all necessary measures, legislative as well as administrative, in order to remove these restrictions on freedom of expression, which are incompatible with its obligations under article 19 of the Covenant, as a matter of priority.

154. The Committee also expresses its concern about severe restrictions imposed on the right to freedom of assembly which are not in compliance with the Covenant. The Committee notes in particular that applications for permits to hold demonstrations are required to be submitted 15 days prior to the demonstration and are often denied by the authorities, and that Decree No. 5 of 5 March 1997 imposes strict limits on the organization and preparation of demonstrations, lays down rules to be observed by demonstrators, and bans the use of posters, banners or flags that "insult the honour and dignity of officials of State organs" or which "are aimed at damaging the State and public order and the rights and legal interests of citizens". These restrictions cannot be regarded as necessary in a democratic society to protect the values mentioned in article 21 of the Covenant. Therefore:

> The Committee recommends that the right of peaceful assembly be fully protected and guaranteed in Belarus in law and in practice and that limitations thereon be strictly in compliance with article 21 of the Covenant, and that Decree No. 5 of 5 March 1997 be repealed or modified so as to be in compliance with that article.

155. With respect to article 22 of the Covenant, the Committee is also concerned about the difficulties arising from the registration procedures to which non-governmental organizations and trade unions are subjected. The Committee also expresses concern about reports of cases of intimidation and harassment of human rights activists by the authorities, including their arrest and the closure of the offices of certain non-governmental organizations. In this regard:

> The Committee, reiterating that the free functioning of non-governmental organizations is essential for the protection of human rights and dissemination of information in regard to human rights among the people, recommends that laws, regulations and administrative practices relating to their registration and activities be reviewed without delay in order that their establishment and free operation may be facilitated in accordance with article 22 of the Covenant.

156. The Committee, while noting that under the Citizens' Communications Act of 6 June 1996 communications may be addressed to State organs, expresses concern that there is no independent mechanism competent to investigate and monitor allegations of human rights violations in Belarus. It also expresses concern at the lack of publicity in regard to the availability of the procedure under the Optional Protocol to the Covenant to victims of violations of their rights under the Covenant, though the right to have recourse to international complaints procedures has been given constitutional protection in Belarus. Therefore:

> The Committee recommends that steps be taken to expedite the planned establishment of an Ombudsman's Office and to ensure that he/she has effective powers to investigate complaints of violations of human rights. Information on the individual communications procedure under the Optional Protocol should be disseminated among the public at large, and in particular among prisoners (including prisoners on death row) and other detainees and members of the legal profession, and education on the full extent of their human rights should be made available to the population at large. A mechanism should be established to ensure the implementation of the Views expressed by the Committee under the Optional Protocol to the Covenant.

157. The Committee draws the attention of the Government of Belarus to the provisions of the guidelines regarding the form and contents of periodic reports from States parties, and requests that its next periodic report, due on 7 November 2001, contain material which responds to all the present concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Belarus.

F. Lithuania

158. The Committee considered the initial report of Lithuania (CCPR/C/81/Add.10) at its 1634th and 1635th meetings, on 30 October 1997, and at its 1643rd meeting,on 6 November 1997, adopted the following observations.

1. Introduction

159. The Committee welcomes the initial report of Lithuania and subsequent amendments, but regrets its late submission. The Committee also regrets that while providing detailed information on prevailing legislation in the field of human rights in Lithuania, the report does not contain sufficient specific information on the implementation of the Covenant in practice. However, the Committee expresses its appreciation for the answers provided by the delegation to questions raised in the course of the discussion, which demonstrated the State party's willingness to engage in an open and constructive dialogue with the Committee and enabled it to obtain a clearer picture of the actual human rights situation in the country.

2. Factors and difficulties affecting the implementation of the Covenant

160. The Committee notes that Lithuania is still in the process of transition to democracy after many years of authoritarian rule and that there remain outdated legislation and a number of institutions which may be detrimental to the implementation of human rights and which will take time to reform.

3. Positive aspects

161. The Committee welcomes Lithuania's accession to the Covenant and other human rights instruments soon after the restoration of its independence on 11 March 1990.

162. The Committee expresses its satisfaction that the new Criminal Code currently being drafted will contain no death penalty provisions, and welcomes Lithuania's intention to accede to the Second Optional Protocol in the near future. The fact that the Clemency Commission, headed by the President of Lithuania, has in practice suspended executions of persons sentenced to death is also welcomed by the Committee.

163. The Committee notes with great interest that Lithuania has undertaken major reforms of the legal system, including repeal of preventive detention laws, abolition of the Press Control Board, subjecting administrative detention to court review, and the enactment of new laws on privacy, on the media and broadcasting, on freedom of information, on non-refoulement, on child welfare and on the integration of disabled people. The Committee welcomes new legislation requiring judicial authorization for pre-trial detention. The Committee also welcomes the establishment of institutions to deal with human rights issues, such as the Committee on Human and Civil Rights and Ethnic Minorities Affairs, the Department of International and Human Rights as well as the Seimas Ombudsman's Office, which investigates citizens' complaints concerning abuse of official position by national and local government officials. In regard to the foregoing:

> The Committee requests that specific information about the operation of these new laws and institutions be provided in the next periodic report of Lithuania.

164. The Committee welcomes the information provided by the delegation on programmes for education in human rights and on action taken to disseminate information about the Covenant to the people of Lithuania.

165. The Committee welcomes the recognition by Lithuania of the competence of the Committee to receive and consider communications under the Optional Protocol to the Covenant. In this regard:

> A specific mechanism should be established to ensure that the Views expressed by the Committee on individual communications under the Optional Protocol to the Covenant are systematically implemented.

4. Subjects of concern and the Committee's recommendations

166. The Committee is concerned about the unclear legal status of the Covenant within the domestic legal order and the apparent lack of opportunity for individuals to challenge the application of laws which affect their rights and freedoms under the Covenant in the courts. Therefore:

> The State party should ensure that Covenant rights are not restricted by legislation inconsistent with it and take all necessary steps to allow individuals to challenge the application of laws which affect their rights and freedoms under the Covenant in the courts.

167. While welcoming the progress made in ensuring the equal enjoyment of rights by women, which includes the initiation of the Action Plan 1998-2000 for the Implementation of the Programme for Advancement of Women, the Committee is concerned that women still suffer from discrimination, especially in the area of employment and in access to leadership positions in politics and society, and that the proposed law on gender equality has not yet been enacted. Therefore:

> Concrete measures should be taken to eliminate all discrimination against women and to enhance and reinforce the position of women in society by providing legal remedies for discrimination in all areas, including employment and commercial advertising. Mechanisms should be established to monitor non-discrimination laws, to receive and investigate complaints from victims, and to award compensation where appropriate.

168. While noting the measures adopted recently to provide assistance to women victims of violence and forced prostitution and to prosecute persons involved in procuring, the Committee is extremely concerned about the extent of these problems. It is also concerned about the problems of child abuse, including sexual abuse. Therefore:

> Additional measures should be taken to prevent, investigate and prosecute cases of violence against women, including domestic violence, and abuse of children, including sexual abuse, and to promote the right of women and children to personal security. Programmes for the rehabilitation of traumatized children and adequate legal and social procedures and mechanisms to deal with complaints of both physical and mental ill-treatment need to be developed.

169. The Committee is concerned at reported cases of harassment and use of excessive force by members of the army against conscripts and of police brutality against detainees. Therefore:

> An independent investigation mechanism should be established to inquire into all cases of alleged brutality committed by members of the police or the army. Intensive training and education programmes in the field of human rights for members of the army and law enforcement officials are also recommended to ensure their observance of the Covenant, especially its articles 7, 9 and 10.

170. The Committee is concerned that the power of the police to detain people for up to five hours could be used for the purpose of harassment or intimidation, in violation of the right under article 9 of the Covenant to personal liberty and security. Therefore:

> The provisions on police detention should be reviewed to bring them into conformity with the Covenant.

171. While recognizing the efforts undertaken by the State party to improve prison conditions, the Committee is concerned that most prisons, especially places of pre-trial confinement, are overcrowded. Therefore:

> The State party should take the necessary measures to ensure that the conditions of detention of persons deprived of their liberty comply with article 10 of the Covenant, taking into account the Committee's General Comment No. 21 (44) and the United Nations Standard Minimum Rules for the Treatment of Prisoners.

172. The Committee expresses concern that the right of foreign nationals to freedom of movement may be restricted on grounds not compatible with the Covenant and that restrictions

on the right to leave Lithuania are imposed on persons who, because of their employment, may have information relating to State secrets. Furthermore, the Committee expresses its concern that restrictions are imposed on the freedom of movement of asylum-seekers with temporary refugee status and that failure to observe those restrictions may result in the rejection of the claim for asylum. Moreover, the Committee is concerned that the law appears to protect against expulsion or deportation in cases where persons may be exposed to "persecution" but not where there is a threat to their right to life or of inhuman and degrading treatment or punishment. Therefore:

> Provisions which restrict freedom of movement in a manner incompatible with article 12 of the Covenant should be repealed. Provision should be made to ensure that persons are not deported to States where they may face a real risk of violation of their rights under articles 6 and 7 of the Covenant.

173. With regard to article 14 of the Covenant, the Committee is concerned that, although there are new provisions aimed at ensuring the independence of the judiciary, District Court judges must still undergo a review by the executive after five years of service in order to secure permanent appointment. In this regard, the Committee recommends that:

> Any such review process should be concerned only with judicial competence and should be carried out only by an independent professional body.

174. The Committee is particularly concerned about the extensive powers exercised by immigration officers in respect of illegal immigrants in border areas. Therefore:

> The powers of entry and search exercised by immigration officers should be clearly defined and judicially controlled in order to ensure compliance with article 17 and other provisions of the Covenant.

175. The Committee is concerned that registration requirements for religious organizations, as well as distinctions made between different religious groups in this connection, could result in discrimination on religious grounds in violation of the right to freedom from discrimination on the ground of religion. The Committee recommends that:

> There should be no discrimination in law or in practice in the treatment of different religions in violation of articles 18 and 26 of the Covenant.

176. The Committee expresses its concern over the conditions for alternative service available to persons who have a conscientious objection to military service, in particular the grounds for establishing the right to perform alternative service and its length. Therefore:

> The Committee recommends the State party clarify the grounds and eligibility for performing, without discrimination, alternative service on grounds of conscience or religious belief to ensure that the right to freedom of conscience and religion is respected.

177. The Committee is concerned that associations or organizations must comply with registration requirements in order to operate in Lithuania, and that there are overly broad prohibitions on their activities. Therefore:

> The Committee recommends that limitations on the operation of associations and organizations not exceed those permitted under article 22 of the Covenant.

178. The Committee notes that certain rights provided for in the Constitution of Lithuania are limited to citizens, although the delegation stated that, in practice, these rights are enjoyed by all persons. In this regard:

> The Committee recommends that relevant legislation be reviewed in order to ensure that there is no arbitrary discrimination against aliens, which is incompatible with the provisions of articles 2 (1) and 26 of the Covenant.

179. The Committee draws the attention of the Government of Lithuania to the provisions of the guidelines regarding the form and contents of periodic reports from States parties and requests that its next periodic report, due on 7 November 2001, contain material which

responds to all the present concluding observations, and especially on the implementation of the provisions of the Covenant. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Lithuania.

G. Cyprus

180. The Committee considered the third periodic report of Cyprus (CCPR/C/94/Add.1) at its 1647th and 1648th meetings on 24 March 1998, and at its 1663rd meeting, on 3 April 1998, adopted the following observations.

1. Introduction

181. The Committee welcomes the timely and comprehensive report submitted by the Government of Cyprus, as well as the information provided in the supplementary report to the third periodic report. The Committee notes with satisfaction that the concluding observations made in connection with the second periodic report have been largely taken into account by the Government of Cyprus in the report under consideration. The Committee expresses its appreciation for the constructive dialogue with the delegation which enabled it to gain a deeper understanding of the human rights situation in Cyprus, in particular of the mandates and functioning of the national machineries in place to protect and promote human rights in the country.

2. Factors and difficulties affecting the implementation of the Covenant

182. The Committee notes that the State party, as a consequence of events that occurred in 1974 and resulted in the occupation of part of the territory of Cyprus, is still not in a position to exercise control over all of its territory and consequently cannot ensure the application of the Covenant in areas not under its jurisdiction. The Committee also notes that, as a consequence of the same events, a number of citizens of both Greek and Turkish communities continue to be missing, making it impossible for the State party to provide any information about the protection of their rights.

3. Positive aspects

183. The Committee welcomes the establishment of a Commissioner for Administration with the mandate to investigate, inter alia, alledged cases of ill-treatment, inhuman and/or degrading treatment and torture. The Committee also notes the decision by the Council of Ministers to establish a National Institution for Human Rights, which should be an independent body charged with monitoring the compliance by the Government of Cyprus with its obligations under international human rights instruments.

184. The Committee expresses its appreciation for the revision of the legislation concerning prisons and of its regulations which have, in particular, facilitated the establishment of a register for detainees. It also welcomes the creation of an independent Prison Council.

185. The Committee also notes with satisfaction the incorporation of a human rights course element into the core training programme for police officers and for government officials.

186. The Committee welcomes the establishment of a Family court with jurisdiction over civil and religious marriage.

187. The Committee also welcomes the recent agreement between the Government of Cyprus and the representatives of the Turkish Cypriot authorities to resolve the fate of the persons who have disappeared and are missing since 1974 and encourages both sides to continue their efforts with the assistnce of international mediation.

4. Principal subjects of concern and the Committse's recommenations

188. The Committee notes as a general concern the long delays and obstacles experienced in enacting into law many desirable proposals for new legislation on a number of matters and strongly urges the State party to take all necessary steps to remedy this situation in order to implement the provisions of the Covenant more comprehensively at the national level.

189. The Committee regrets the persistence of inequality between men and women in law and in practice in Cyprus. It is concerned that discriminatory provisions on the basis of sex continue to inhibit the full enjoyment by women of their human rights, in particular in laws relating to marriage, nationality, immigration, employment and education. The Committee urges the State party to adopt legislative measures to eliminate sex-based discrimination in all relevant areas.

190. The Committee notes with concern the discriminatory legal provisions which penalize homosexual acts and urges the State party to repeal them.

191. The Committee is concerned that the new law on prevention of violence within the family has not produced the expected positive results and urges the State party to adopt appropriate measures to improve the situation. A reform of the law on evidence should take into account the possibility of eliminating obstacles to a spouse providing testimony against another spouse on domestic violence.

192. The Committee is concerned that the adoption of a proposed new law regulating civil debt has been unreasonably delayed and recommends the State party to ensure that the requirements of article 11 of the Covenant be fully met.

193. The Committee reiterates its concern that, while the Covenant has superior force to domestic law under the Constitution and may be invoked in the courts, there remain uncertainties as to which provisions of the Covenant are self-executing within domestic law of the State party and which require specific legislation.

194. While the Committee notes the enactment of a new law regulating public assemblies and processions, it is concerned about the conditions which the appropriate authorities may impose regarding the conduct of assemblies and processions upon receiving the required advance notification. The Committee also notes that the advance notice required to be given is too early and may unduly curtail freedom of assembly. The Committee reiterates that restrictions on freedom of assembly must be limited only to those which are in conformity with article 21 of the Covenant.

195. The Committee is concerned that the age of criminal responsibility is still fixed at seven years, and that marriageable age is defined as the onset of puberty.

196. The Committee further reaffirms its position that corporal punishment is prohibited under the Covenant.

197. The Committee remains concerned about the discriminatory treatment accorded to conscientious objectors in Cyprus, who may be subject to punishment on one or more occasion for failure to perform military service. The Committee recommends that the proposed new law concerning conscientious objectors ensure their fair treatment under the law and eradicate lengthy imprisonment as a form of punishment.

198. Considering the repeated allegations of discrimination against Cypriot citizens of Turkish origin, including issues of employment and identity cards, the Committee regrets the lack of concrete information on the situation of those citizens, and requests the Government of Cyprus to provide detailed information on this matter in the fourth periodic report.

199. In relation to cases of alleged brutality, ill-treatment and torture by the police, the Committee urges the State party to take firm measures to ensure an effective remedy to any victim of such human rights violation. In this connection, the Committee is concerned about the apparent reluctance of victims of violence and ill-treatment to testify before the relevant instances and recommends that the State party take every possible measure to correct the situation, including increased public information activities to educate the public on redress mechanisms available at the national level, their mandates and their functioning.

200. The Committee recommends that the legal profession as well as the legislative, judicial and administrative authorities be provided with adequate information on the provisions of the Covenant and its optional protocols.

201. The Committee also recommends that appropriate publicity be given to the third periodic report and its consideration by the Committee, including these observations.

202. The Committee fixed the date for the submission of the fourth periodic report of Cyprus as June 2002.

H. Zimbabwe

203. The Committee considered the initial report of Zimbabwe (CCPR/C/74/Add.3) at its 1650th and 1651st meetings, on 25 and 26 March 1998, and at its 1664th meeting, on 3 April 1998, adopted the following observations.

1. Introduction

204. The Committee welcomes the initial report of Zimbabwe, which was prepared in partial conformity with the Committee's guidelines. The Committee regrets the considerable delay in the submission of the report and notes that, while providing detailed information on prevailing legislation in the field of human rights in Zimbabwe, the report does not contain sufficient specific information on the implementation of the Covenant in practice. Moreover, in the oral presentation by the delegation, only an incomplete picture regarding constitutional amendments emerged. The Committee appreciates the willingness of the State party to engage in a frank and open dialogue and welcomes its offer to furnish further and more detailed written information.

2. Positive aspects

205. The Committee welcomes the ongoing review of domestic legislation and customary law in order to ensure their compatibility with the Covenant, particularly in the area of women's rights. The Committee welcomes the recent constitutional amendment which includes gender as a prohibited ground of discrimination.

206. The Committee welcomes the decisions of the Supreme Court upholding rights protected by the Covenant.

207. The Committee welcomes the establishment of the Office of the Ombudsman, with power to investigate citizens' complaints concerning alleged violations of human rights by officials and the establishment of an Inter-Ministerial Committee on Human Rights and International Humanitarian Law.

208. The Committee welcomes police training by non-governmental organizations, and notes the efforts undertaken by Zimbabwe to integrate human rights education in the school curricula.

209. The Committee commends the provision of statistics on AIDS and the efforts undertaken to incorporate HIV/AIDS awareness campaigns in the school curricula.

3. Subjects of concern and Committee's recommendations

210. The Committee notes with concern the persistence of behavioural attitudes in the society as well as cultural and religious practices which impede the full enjoyment of human rights. The Committee encourages the State party to take necessary legislative and other measures to correct this situation.

211. The Committee notes that not all of the rights in the Covenant have been made part of domestic law and cannot be invoked directly before domestic courts. Notwithstanding the State party's stated policy of thorough legislative review in order to ensure compatibility of domestic legislation with the Covenant, the Committee notes the absence of effective institutional mechanisms to ensure systematic implementation and monitoring of its

provisions. The Committee is concerned about the increasing trend to enact parliamentary legislation and constitutional amendments to frustrate decisions of the Supreme Court that uphold rights protected under the Covenant and overturn certain laws incompatible with it.

212. The Committee regrets that the Ombudsman has no power to initiate investigation suo motu but only where a complaint has been lodged. The Committee also regrets that the President, the President's Office, the Attorney-General and Secretary for Justice, Legal and Parliamentary Affairs and any member of their staff are specifically excluded from investigation by the Ombudsman. The Committee emphasizes the importance and necessity of setting up an effective independent institutional mechanism for monitoring the implementation of the Covenant.

213. The Committee recommends that the State party undertake a comprehensive review of its domestic legislation, including the Constitution, with a view to ensuring its full compatibility with the principles and provisions of the Covenant. The State party is urged to ensure that the Covenant rights are not restricted or overriden by incompatible legislation and that individuals are able to challenge in the courts the application of laws which affect their rights under the Covenant. The Committee recommends the establishment of institutional mechanisms to ensure the integration of Covenant rights in law and practice.

214. The Committee is concerned about the duality of the legal statutory law and customary law, which potentially leads to unequal treatment between individuals, particularly in the area of marriage and inheritance laws. The Committee expresses concern that where customary law contravenes the Covenant or the statutory law, the customary law continues to be upheld and applied. The Committee is concerned about continued practices, in violation of various provisions of the Covenant, including articles 3 and 24, such as kuzvarita (pledging of girls for economic gain), kuripa ngozi (appeasement to the spirits of a murdered person), lobola (bride price), female genital mutilation, early marriage, the statutory difference in the minimum age of girls and boys for marriage. The Committee recommends that these and other practices which are incompatible with the Covenant (articles 3, 7, 23, 24 and others) be prohibited by legislation. Moreover, the Committee urges the Government to adopt adequate measures to prevent and eliminate prevailing social attitudes and cultural and religious practices hampering the realization of human rights by women.

215. While welcoming the Deceased Estate Succession Act 1997, under which a widow may inherit part of her deceased husband's estate, the Committee would appreciate further information on the steps taken to ensure that widows are made aware of this right and that legal assistance be provided for their benefit.

216. The Committee is concerned about the extent and persistence of domestic violence against women. Legislation should be passed to make marital rape a criminal offence. Educational campaigns should be undertaken and institutional mechanisms should be established to address all forms of violence against women, and to provide assistance to victims of violence.

217. The Committee is concerned about the subordinate status of women in Zimbabwean society. Measures should be taken, in accordance with articles 3 and 26 of the Covenant, to eliminate discrimination against them and promote their role in society. There should be mechanisms to receive complaints, award appropriate remedies and report publicly on problems and progress.

218. The Committee expresses its concern at recent reports of excessive use of force by the police and the army during food riots in 1998. The Committee urges that all cases of alleged excessive use of force committed by members of the police or the army be investigated by an independent and impartial body, that action be taken against those officers found to have committed abuses and that compensation be paid to the victims; the State party should report to the Committee thereon. Intensive training and education programmes in the field of human rights for members of the army and law enforcement officials are recommended. The Committee urges that the list of situations in which the use of lethal force is allowed under domestic law be reduced.

219. With regard to pre-trial detention, the Committee expresses concern that under the Criminal Procedure and Evidence Act the maximum period of detention of 48 hours before being brought to a judge or magistrate may be extended to 96 hours by a senior police officer, a

practice which is incompatible with article 9 of the Covenant. The Committee is especially concerned that this practice provides opportunity for ill treatment and intimidation of detainees. The law relating to arrest and detention should be reviewed to bring it into conformity with article 9 of the Covenant and to ensure that individuals are not held in pre-trial custody for longer than 48 hours without court order. The Committee requests further information on the authority of the Attorney-General to deny bail to individuals in pre-trial detention.

220. While recognizing the efforts undertaken by the State party to improve prison conditions, the Committee is concerned about the conditions of overcrowding and disease in most prisons, resulting in a high incidence of death. The Committee recommends that these conditions be remedied in compliance with article 10 of the Covenant and that the State party provide qualitative and quantitative statistical data on the state of prisons in its next report.

221. The Committee notes with concern that the decision of the Supreme Court in Rattigan and Others v. Chief Immigration Officer and Others has been nullified by an amendment to the constitution, the effect of which is to deprive both women and men of the right to have their spouses registered as citizens, who as a consequence may not be allowed to reside in or enter the territory of Zimbabwe. The Committee considers that this amendment is incompatible with articles 17 and 23 of the Covenant. The Committee recommends that steps be taken to bring the law into compliance with the Covenant. The Committee is also concerned that children born to Zimbabweans abroad may not acquire Zimbabwean citizenship.

222. The Committee recommends that the State party review its laws with a view to reducing the number of offences for which capital punishment can be imposed, in compliance with article 6 of the Covenant and with the Committee's general comment thereon.

223. The Committee is concerned about recent amendments of section 15 of the Constitution which, inter alia, authorize corporal punishment. The Committee reaffirms its position that corporal punishment is incompatible with article 7 of the Covenant.

224. The Committee is concerned that the mass media as well as many other forms of expression, including artistic expression, are subject to censorship and are largely controlled by the Government. The Committee is further concerned that the mass media as well as the law on civil and criminal defamation are used by government officials to limit the freedom of the press. The Committee recommends that the restrictions on freedom of expression and the press be brought into strict compliance with article 19(3) of the Covenant.

225. The Committee expresses concern that immunity has been extended to individuals committing acts of political violence against government opponents. Moreover, the lack of political pluralism threatens the enjoyment of democracy in Zimbabwe. The Committee requests the State party to provide written information on the functioning of the electoral system, including a breakdown of the size of constituencies.

226. The Committee notes with concern that homosexuals are subjected to discrimination, e.g., that aliens deemed to be homosexuals may be defined as "prohibited persons" for immigration purposes and are subject to deportation. The Committee recommends that such legislation be brought into conformity with the Covenant.

227. The Committee notes with concern that the Postmaster-General is authorized to intercept any postal articles or telegrams on grounds of public security or the maintenance of law and to deliver these items to a specified State employee. The Committee recommends that steps be taken to ensure that interception be subject to strict judicial supervision and that the relevant laws be brought into compliance with the Covenant.

228. The Committee is concerned about legal provisions which restrict freedom of movement in a manner incompatible with article 12 of the Covenant. It recommends that appropriate efforts be undertaken to ensure that all persons are able to move out of the country freely and without undue delay obtaining the necessary documents.

229. The Committee is concerned about safeguarding the cultural heritage of minorities in Zimbabwe and recommends, inter alia, that education be provided in minority languages.

230. The Committee recommends the introduction of appropriate awareness campaigns to create a deeper understanding of the Covenant and of the need to respect and protect human rights. Training programmes should be developed in order to acquaint public officials and professional groups working in the area of human rights, including public officials, law-enforcement and correctional officials, members of the judiciary, members of the defence forces, teachers, social workers and health care personnel. The Committee further encourages the State party to include the Covenant in school curricula and to give consideration to reflecting it in the training curricula.

231. The Committee recommends that the State party's next periodic report be comprehensive in character and that it address all the points raised in these concluding observations.

232. The Committee requests the State party to ensure the wide dissemination in Zimbabwe of the Covenant, the State party report and the Committee's concluding observations.

233. The Committee fixed the date for the submission of Zimbabwe's second periodic report as June 2002.

I. Uruguay

234. The Committee considered the fourth periodic report of Uruguay (CCPR/C/95/Add.9) at its 1653rd and 1654th meetings, on 27 March 1998, and at its 1665th meeting (sixty-second session), on 6 April 1998, adopted the following observations.

1. Introduction

235. The Committee welcomes the timely submission of the fourth periodic report of Uruguay and takes note of the useful information contained in the report concerning recent legislative changes. It appreciates, in particular, that the report in general takes into account a number of comments made by the Committee during the consideration of the State party's third periodic report.

236. The Committee expresses its appreciation to the delegation for its thorough introduction of the report and responses to questions raised by members of the Committee. The valuable additional information provided by the State facilitated an open, frank and fruitful dialogue between the Committee and the State party.

2. Positive aspects

237. The Committee welcomes the achievements during the period under review in bringing domestic law into conformity with the provisions of the Covenant. Considerable progress has also been realized with the enactment of new laws and codes and with the strengthening of democratic institutions and processes aimed at promoting and protecting human rights. Notable among these legislative achievements is the enactment of the new Code of Criminal Procedure (Act No. 16.893).

238. It also welcomes the constitutional amendment of January 1997, which makes the electoral system more transparent and brings it in line with international norms, as well as various legislative acts to ensure equality between men and women and to prevent domestic violence, including that against women, children and old people.

239. It further welcomes the steps taken to improve the training of law enforcement officers and wardens in detention centres, as well as the agreements between the Ministry of the Interior and the universities in order to improve police training.

3. Principal subjects of concern and recommendations

240. The Committee expresses once again its deep concern about the Ley de Caducidad de la Pretensión Punitiva del Estado (Expiry Law of the Punitive Powers of the State) and its profound anxiety about the implications of the Law with regard to compliance with the Covenant. In this regard, the Committee emphasizes the obligation of States parties, under

article 2, paragraph 3, of the Covenant, to ensure that all persons whose rights or freedoms have been violated shall have an effective remedy through recourse to the competent judicial, administrative, legislative or other authority. The Committee notes with deep concern that in a number of cases the maintenance of the Expiry Law effectively excludes the possibility of investigation into past human rights abuses and thereby prevents the State party from discharging its responsibility to provide effective remedies to the victims of those abuses. The Committee also considers that the Expiry Law violates article 16 of the Covenant in respect of the disappeared persons and article 7 in respect of their family members. Therefore:

> In the light of the information provided by the delegation, the Committee encourages the State party to promote and facilitate every opportunity to discuss this issue within the country, in order to find a solution that is in full compliance with Uruguay's obligations under the Covenant.

241. The Committee reiterates its concern about the constitutional provisions relating to the declaration of a state of emergency. In particular, the Committee notes that the grounds for declaring an emergency are too broad and that the range of rights which may be derogated from does not conform with article 4 of the Covenant. Additionally, the Constitution fails to make reference to non-derogable rights. Therefore:

> The Committee reiterates its observations on Uruguay's third periodic report, that the State party restrict its provisions relating to the possibilities of declaring a state of emergency, and constitutionally specify those Covenant rights which are non-derogable.

242. The Committee appreciates the new Code of Criminal Procedure that will come into force in July of 1998. However, it notes with concern that the following aspects thereof are not in conformity with the Covenant:

(a) The Committee is particularly concerned with article 55 of the Code in accordance with which a suspect may be placed in "incommunicado" detention until a decision is taken as to whether he should be committed to stand trial, and with the fact that during this period the judge may restrict contact by the suspect with a lawyer. The Committee recommends that this provision is brought into conformity with the Covenant;

(b) The Committee is concerned that the regulations relating to pre-trial detention both in respect of suspects (imputados) and accused are not in conformity with article 9 of the Covenant. In this regard, it underlines that, in accordance with the principle of presumption of innocence, pre-trial detention should not be mandatory. It is also concerned with the wide possibilities which exist to restrict a suspect's liberty as set forth in article 185 of the Code, in the light of the broad definition of "imputado", contained in article 51 (1) of the Code. The Committee recommends that detention procedures and other restrictions on the liberty of suspects and accused should be revised with a view to facilitating full application of the rights provided for under the Covenant, having particular regard to the principle of the presumption of innocence;

(c) The Committee is concerned that, in accordance with the new Code, the trial judge is the same judge who has supervised and/or ordered investigations, and who subsequently charged the defendant. This raises serious concerns about possible impartiality of the trial. The Committee recommends that the new Code ensure true impartiality in accordance with the Covenant;

(d) The Committee is concerned about articles 89 and 90 of the Code which provide that the marriage to the accused of a victim of rape, even statutory rape, and of other criminal offences, extinguishes the criminal offence or the sentence handed down at the trial, to the benefit of a perpetrator who has subsequently married the victim, and particularly of all other participants in the offence. The Committee recommends that these provisions be modified to conform to the Covenant.

243. Although the new Press Law (Act No. 16,099) is in general a positive achievement, the Committee is concerned that it still includes provisions that might impede the full exercise of freedom of expression. Foremost among these are certain provisions relating to offences committed by the press or other media, in particular articles 19 and 26 of the law, relating to false information and to slander through the media. Therefore:

> With respect to freedom of expression, there should be greater freedom to seek information, as provided for under article 19 (3) of the Covenant. Additionally, the sanctions provided for under chapter IV of the Press Law are too wide and may hinder the full enjoyment of article 19 of the Covenant. In this regard, the law is not adequate.

244. The Committee, while recognizing the progress made by the State party in respect of children's rights and in particular the future Code Relating to Minors (Codigo del Menor), remains concerned with the information provided by the delegation, that the future Code discriminates against female minors and fails to protect fully the new born child, as unmarried minor mothers may register their children at any age, whereas minor fathers may only do so from the age of 16 onwards. In this regard:

> The Committee urges the State party in the course of drafting this Code to bring the whole of it into full conformity with articles 3 and 24 of the Covenant. It wishes to receive the text of the Code when it is enacted.

245. The Committee is concerned about the statement of the State party that no minority group exists in Uruguay and recommends that the State party continue to develop its efforts in identifying the minority groups within the country and adopt the pertinent measures to ensure that the rights under article 27 are respected.

246. The Committee recommends that the State party proceed as rapidly as possible with the Bill before Parliament on the Ombudsman (Defensor del Pueblo), and that the Office should be independent of the Government, have jurisdiction to deal with human rights violations, and be adequately staffed to deal with complaints of abuse.

247. The Committee is concerned with the information provided by the State party, in respect of the follow-up on the Committee's decisions in individual cases, where the Committee has established a violation of the Covenant. In particular, the Committee does not consider it appropriate to expect a person found to be a victim of a human rights violation to have to initiate new procedures before the domestic courts to establish the violation, and considers that the statute of limitations should not apply. Therefore:

> The Committee recommends that the State party provide a remedy in accordance with the views adopted by the Committee on individual cases considered under the Optional Protocol.

248. The Committee further recommends that greater publicity should be given to the Covenant and the Optional Protocol to ensure that the provisions of these instruments are made widely known to the legislature, the executive, the judiciary, law enforcement officials and members of the legal profession, as well as to the general public.

249. The Committee draws the attention of the Government of Uruguay to the provisions of the guidelines regarding the form and contents of periodic reports from States parties, and requests that its next periodic report, due on 21 March 2003, contain material which responds to all of these concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Uruguay.

250. The Committee fixed the date for the submission of Uruguay's fifth periodic report as June 2003.

J. Finland

251. The Committee considered the fourth periodic report of Finland (CCPR/C/95/Add.6) at its 1659th and 1660th meetings, on 1 April 1998, and at its 1666th meeting, on 6 April 1998, adopted the following observations.

1. Introduction

252. The Committee welcomes the fourth periodic report of Finland, and notes its timely submission and thorough discussion of issues in accordance with the Committee's guidelines. The Committee also acknowledges the comprehensive oral responses by the high-level Finnish delegation.

2. Positive aspects

253. The Committee notes with appreciation Finland's actions to advance human rights since consideration of its third periodic report in October 1990. Foremost among these developments are Finland's ratification of the Second Optional Protocol to the Covenant in 1991, the reform of the Finnish Constitution in 1995 to incorporate the provisions of the Covenant and other human rights instruments into the Constitution and to extend the application of fundamental rights to non-citizens as required by article 2(1) of the Covenant.

254. The Committee welcomes the recent reform of Finnish criminal procedure which, inter alia, ensures that detainees are brought to court without delay, and have the right to speedy trial and communication with family and counsel. Also welcome is Finland's withdrawal of its reservation to article 9(3) of the Covenant.

255. The Committee notes with satisfaction the recognition in the Constitution of the Sami and Roma people and of their rights, along with other groups, to develop their language and culture. The Committee welcomes the existence of Advisory Boards for both Sami and Romani affairs, mandated to advance the interests of these minority populations, and the right of Samis since 1992 to communicate with the authorities in their native language and to be consulted through their representatives on matters affecting them closely. It also welcomes that primary and secondary education level students may be taught in their mother tongue of Sami or Romani.

256. The Committee commends the efforts to promote racial tolerance by the establishment of the Parliamentary Ombudsman, the Chancellor of Justice, the Ombudsman for Aliens, and the Advisory Board for Refugee and Migrant Affairs, as well as the implementation of a human rights curriculum in the schools.

257. The Committee notes with satisfaction the recent efforts to safeguard the well-being of women and children in domestic abuse situations by the establishment of nationwide crisis centres and shelters and the treatment of men who abuse, as well as legislation in 1994 to outlaw rape in marriage and new measures to combat trafficking in women and children.

258. The Committee welcomes the implementation of the Aliens Act in 1991 and other legislative measures which broaden the criteria for the issuance of residency permits, create procedures for review of deportation decisions and give the Ombudsman for Aliens a role in these proceedings, and give alien residents the right to vote in local elections.

259. The Committee welcomes the action taken by Finland to disseminate information about the Covenant and to consult with non-governmental organizations about the report.

3. Subjects of concern and Committee recommendations

260. While noting that a recent reform of the Penal Code makes punishable the violation of several rights and freedoms, including those protected by articles 21 and 22 of the Covenant, the Committee is concerned that criminal law may not alone be appropriate to determine appropriate remedies for violations of certain rights and freedoms. It recommends that the Finnish authorities continue to give priority to positive measures and to civil processes which are able to determine issues of compensation or other remedies, especially in cases of discrimination.

261. The Committee notes that the proposed Sami Act, by which forests within the Sami homeland would be turned into commons owned by the Sami villages, has not passed the Parliament and that the issue of land rights of the Sami have not been resolved.

262. The Committee notes that "important" United Nations and European conventions are translated into Sami languages and disseminated to the Sami, and recommends that efforts should be made to provide to the Sami and Roma minority printed texts of all available human rights documents, translated into the Sami and Roma languages, where possible.

263. While recognizing the State's efforts to extend the prohibition of sex discrimination and achieve equality, particularly in the workplace, the Committee remains concerned at the continuing disparity in remuneration between the sexes and the relatively low proportion of women in higher levels of the public service. Further efforts are necessary to reduce these differentials.

264. The Committee regrets the continuing de facto discrimination against members of the Roma minority, especially in the area of private housing, employment and services; it recommends that government agencies be trained to intervene positively to help to overcome racist attitudes and to initiate proceedings where any pattern of discrimination is identified.

265. The Committee expresses concern at its understanding that, after due notice, a person charged before the Finnish courts with certain offences may be tried in absentia, if his or her presence was not necessary, and sentenced to a fine or up to three months imprisonment with no possibility for retrial after 30 days. The Committee considers that unless the person has clearly agreed to this procedure and the court is fully informed of the offender's circumstances, this method of trial could raise questions of compatibility with article 14(3)(d) and (e) of the Covenant. The Committee suggests that this procedure be reviewed.

266. The Committee expresses serious concern about the increase in negative attitudes and de facto discrimination towards immigrants among some of the Finnish population, and also of instances of violence. While appreciating Finland's acknowledgment of the situation and the steps Finland has taken to minimize the problem, the Committee recommends that further positive measures be taken to overcome discriminatory and xenophobic attitudes and prejudice, and to foster tolerance.

267. The Committee notes that the reservations entered by Finland upon ratification of the Covenant with respect to articles 10(2)(b) and (3), 14(7) and 20(1) are still in force and recommends that consideration be given to the withdrawal of these reservations.

268. The Committee expresses its continuing concern that there is still legal provision for preventive detention of certain convicted persons ("dangerous recidivists") to be determined by the Prison Court and recommends that early consideration be given to implementing the current proposals for the reform of indefinite imprisonment as outlined in paragraph 52 of Finland's fourth periodic report.

269. The Committee notes with concern that Swedish-speaking persons do not always have the possibility of using their language in dealing with authorities and recommends that possibility be put into practice.

270. The Committee is concerned that asylum-seekers and aliens with irregular status are held in public prisons and police detention places pending inquiry as to their status and recommends implementation of the proposal to establish separate areas.

271. The Committee reiterates its concern, expressed during the consideration of Finland's third report, that Jehovah's Witnesses are granted by domestic law preferential treatment as compared with other groups of conscientious objectors and recommends that the State party review the law to bring it into full conformity with article 26 of the Covenant.

272. The Committee recommends that the laudable efforts already made in connection with the promotion of greater public awareness of the provisions of the Covenant and the Optional Protocols should be further pursued and that appropriate publicity be given to these concluding observations.

273. The Committee fixed the date for the submission of Finland's fifth periodic report as June 2003.

K. Ecuador

274. The Committee considered the fourth periodic report of Ecuador (CCPR/C/84/Add.6) at its 1673rd and 1674th meetings, on 14 July 1998, and at its 1692nd meeting, on 27 July 1998, adopted the following observations.

A. Introduction

275. The Committee welcomes the fourth periodic report, as well as the addendum to the report, updating information submitted by the State party. The Committee appreciates the presence of a high-level delegation and the frank exchange with the Committee, enabling it to obtain a clearer view of the present human rights situation in Ecuador.

276. The Committee, while appreciating the addendum to the report provided by the State party, regrets that it did not receive a core document, which would have helped the Committee to better understand the problems existing in Ecuador. The Committee also regrets the overall lack of reliable statistics.

B. Positive aspects

277. The Committee takes note of the promulgation of the new Constitution in May 1997, which will enter into force in August 1998, and welcomes the expanded list of provisions for the protection of human rights.

278. The Committee welcomes the adoption of legislation which establishes measures for the compensation of victims of human rights violations. It also expresses its satisfaction with the information that the next-of-kin of two particularly serious cases of human rights violations have been compensated by the State party.

279. The Committee welcomes the National Human Rights Plan, as well as the establishment of the Consejo Nacional de la Magistratura. It also notes the decision to appoint a new Ombudsman and welcomes the creation of the remedies of amparo and habeas data, as well as the expansion of the remedy of habeas corpus.

280. The Committee welcomes the information that article 23 of the Constitution prohibits the enacting of amnesty legislation or granting pardons for human rights violations; that torture, enforced disappearances and extrajudicial executions have no statute of limitation; and that obedience to superior orders cannot be invoked as an extenuating circumstance. It also welcomes the information that the jurisdiction of the military tribunals has been limited to members of the armed forces in the exercise of their official functions; that these tribunals have no jurisdiction over civilians; and that cases of human rights violations by members of the army and the security forces fall under the jurisdiction of civilian courts.

281. The Committee welcomes the information that the Constitutional Court has declared unconstitutional the criminalization of private homosexual relations between consenting adults and the law excluding persons charged under the Narcotics and Psychotropic Substances Act from the application of the new provisions on detention pending trial.

282. The Committee welcomes the information that a series of educational programmes have been devised in collaboration with international institutions, to enable all segments of the population, in particular members of the army, security forces and the police, and members of the judiciary and lawyers, to be better acquainted with international standards for the protection and observance of human rights and human dignity.

C. Principal subjects of concern, suggestions and recommendations

283. The Committee is concerned at the many instances of violence against women and the very few judicial decisions thereon. The Committee stresses that all reported acts of violence against women should be investigated and appropriate judicial proceedings instituted.

284. The Committee expresses its concern about the very high number of suicides of young females referred to in the report, which appear in part to be related to the prohibition of abortion. In this regard, the Committee regrets the State party's failure to address the resulting problems faced by adolescent girls, in particular rape victims, who suffer the consequences of such acts for the rest of their lives. Such situations are, from both the legal and practical standpoints, incompatible with articles 3, 6 and 7 of the Covenant, and with article 24 when female minors are involved. The Committee recommends that the State party adopt all necessary legislative and other measures to assist women, and particularly adolescent girls, faced with the problem of unwanted pregnancies to obtain access to adequate health and education facilities.

285. Notwithstanding the postive information provided in respect of the measures taken to amend criminal proceedings, to establish oral hearings and to introduce alternative ways of dealing with civil matters, the Committee continues to be concerned about the unreasonably long judicial delays. The Committee encourages the State party to expedite the process in view of the severe backlog in the courts.

286. The Committee is particularly concerned that accused persons may be held in detention pending trial for a maximum duration of a third of the possible sentence facing them, irrespective of the risk that they may fail to appear for trial and that the State party's own statistics indicate that close to 70 per cent of the prison population is awaiting trial. This situation is incompatible with the presumption of innocence and the right to be tried within a reasonable time or to be released on bail as provided for in articles 9 and 14 of the Covenant. Therefore:

> The Committee recommends that bail legislation be brought into conformity with the provisions of the Covenant and that resort to preventive detention be the exception and not the rule.

287. The Committee expresses concern about the long delays in judicial proceedings which are incompatible with the requirements of articles 9 and 14 of the Covenant. It is also concerned at the severe shortage of public defenders for the poor in Quito and Guayaquil and their total unavailability in many parts of the country. This situation is particularly grave since Ecuadorian law requires mandatory legal assistance in court proceedings. Therefore:

> The Committee recommends that the State party address the question of the long judicial delays, and in particular that it comply with the provisions of the Code of Criminal Procedure, which stipulates that the initial trial should be completed within 60 days. The Committee encourages the State party to increase the number of public defenders and to extend their presence throughout the whole of its territory.

288. The Committee expresses its concern that the provisions of Law No. 10282 on the state of emergency and those contained in article 103 (6) (h) of the Constitution, enumerating the constitutional articles which may be derogated from during a state of emergency are not in conformity with the Covenant. The Committee regrets not having received sufficient information on which articles may be derogated from during a state of emergency and whether they are in conformity with the Covenant.

289. The Committee is concerned that, despite the Plan for Equal Opportunity 1996-2000 and the constitutional guarantees of the rights of women and laws designed to end discrimination, women continue to receive unequal treatment in Ecuador owing in part to the continuation of traditional attitudes and obsolete laws. This situation and the aforementioned laws give rise to problems under articles 3, 23, 24 and 26 of the Covenant. The Committee recommends that the State party fully implement the Plan for Equal Opportunity. It also recommends that the State party abrogate those provisions of the Code of Criminal Procedure which prevent a prostitute from being considered as a suitable witness in trials. The Committee requests the State party to inform it of the measures adopted and of the results achieved under the Plan for Equal Opportunity in its next periodic report.

290. The Committee is also concerned that, despite the legal requirement of judicial authorization for the employment of children under 14 years of age, there continues to be exploitation of children in employment. Therefore:

> The Committee recommends that the Comité Nacional para la Eradicación Progresiva del Trabajo Infantil be provided with the necessary means to carry out its mandate to eliminate the practice of child labour.

291. The Committee is concerned that the births of children born in Ecuador to undocumented refugees are frequently not registered due to the parents' fear of deportation. This situation prevents the children from claiming Ecuadorian nationality, to which any child born in Ecuador is entitled under Ecuadorian law. In this regard:

> The Committee recommends that the State party adopt measures guaranteeing to all children of undocumented refugees born in Ecuador the right to a nationality.

292. The Committee expresses concern at the impact of oil extraction on the enjoyment by members of indigenous groups of their rights under article 27 of the Covenant. In this connection, the Committee is concerned that, despite the legislation enacted to allow indigenous communities to enjoy the full use of their traditional lands in a communal way, there remain obstacles to the full enjoyment of the rights protected under article 27 of the Covenant. Therefore:

> The Committee recommends that further measures be taken to ensure that members of indigenous groups be protected against the adverse effects of the oil exploitation within the country and be enabled to enjoy fully their rights under article 27 of the Covenant, particularly with regard to preservation of their cultural identity and traditional livelihood.

293. The Committee appreciates the assurances provided by the State party that the views of the Committee expressed in communications Nos. 480/1991 and 481/1991 are being dealt with. However, the Committee has not been informed of the actual implementation of the views and the redress that the victims may have obtained. The Committee awaits the receipt of the relevant information.

294. The Committee urges that respect for human rights be institutionalized at all levels of government, and recommends that human rights education be provided in schools at all levels and that the present concluding observations be widely disseminated.

295. The Committee recommends that the State party give the widest dissemination to the present concluding observations, in particular by bringing them to the attention of officials responsible for the administration of justice, non-governmental organizations and the media.

296. The Committee draws the attention of the Government of Ecuador to the provisions of paragraph 6 (a) of the Guidelines Regarding the Form and Contents of Periodic Reports from States Parties, and requests that its next periodic report, due in June 2001, should include material which addresses all the present concluding observations.

L. Israel

297. The Committee considered the initial report of Israel (CCPR/C/81/Add.13) at its 1675th to 1677th meetings, on 15 and 16 July 1998, and at its 1694th meeting, on 28 July 1998, adopted the following observations.

A. Introduction

298. The Committee welcomes the initial report submitted by the Government of Israel, and notes with satisfaction that it was largely prepared in accordance with the Committee's guidelines concerning the form and contents of initial reports. The Committee regrets, however, the considerable delay in the submission of the report, which was received five years after the date on which it was due.

299. The Committee notes that the report, while providing extensive information on prevailing legislation in the field of human rights in Israel, lacks sufficient information on the implementation of the Covenant in practice and on the factors and difficulties impeding its effective implementation. This was partly rectified by the oral information

provided by the delegation during the examination of the report, which enabled the Committee to embark on a frank and constructive dialogue with the State party. The Committee expresses satisfaction that the Government had widely disseminated the report among non-governmental organizations prior to its consideration by the Committee.

B. Factors and difficulties affecting the implementation of the Covenant

300. The Committee notes the security concerns of the State party, the frequent attacks on the civilian population, the problems linked to its occupation of territories and the fact that the State party is officially at war with a number of neighbouring States. However, the Committee draws attention to article 4 of the Covenant, which permits no derogation from certain basic rights even in times of public emergency.

C. Positive factors

301. The Committee notes with satisfaction that Israeli society is a democratic one in which sensitive issues are openly debated and that an active non-governmental community has taken firm root. It expresses appreciation for the wide dissemination of the initial report of Israel among professionals in the justice system who work directly in matters relating to the promotion and protection of human rights and among non-governmental organizations. It welcomes indications that the inter-ministerial network of persons that have worked together on the drafting of the present report may soon be institutionalized.

302. The Committee welcomes the fact that the report includes many references to decisions of the Supreme Court upholding rights protected under the Covenant.

303. The Committee welcomes the recent establishment of the Public Defender's Office. It also welcomes efforts to implement the recommendations of the Kremnitzer Committee, which address questions of police violence, and of the Goldberg Committee regarding rules of evidence. It welcomes the progressive steps which have led to the amendment of the Criminal Code and to the establishment of the Department for Investigation of Police Misconduct within the Ministry of Justice to review complaints of maltreatment by members of the police and security forces. The Committee takes note that the State Comptroller's Office is responsible for acting as Ombudsman, and would welcome further information on its activities, particularly as regards measures to combat discrimination.

304. The Committee notes with satisfaction the establishment of bodies in various ministries to address questions relating to the status of women, and particularly welcomes the activities of the Knesset Committee for the Advancement of the Status of Women. It also notes with satisfaction the establishment of a national authority on the advancement of women with a wide range of responsibilities, the amendment of the Equal Employment Opportunities Law placing the burden of proof on the employer in civil sexual harassment suits, and the enactment of the Equal Pay (Male and Female Employees) Law.

D. Principal subjects of concern and recommendations

305. The Committee notes with regret that, although some rights provided for in the Covenant are legally protected and promoted through the Basic Laws, municipal laws, and the jurisprudence of the courts, the Covenant has not been incorporated in Israeli law and cannot be directly invoked in the courts. It recommends early action in respect of recent legislative initiatives aimed at enhancing the enjoyment of a number of the rights provided for in the Covenant, including proposals for new draft Basic Laws on due process rights and on freedom of expression and association. It also recommends that consideration be given to enacting further laws to give effect to any rights not already covered by the Basic Laws.

306. The Committee is deeply concerned that Israel continues to deny its responsibility to fully apply the Covenant in the occupied territories. In this regard, the Committee points to the long-standing presence of Israel in these territories, Israel's ambiguous attitude towards their future status, as well as the exercise of effective jurisdiction by Israeli security forces therein. In response to the arguments presented by the delegation, the Committee emphasizes that the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under

article 2, paragraph 1, for the actions of its authorities. The Committee is therefore of the view that, under the circumstances, the Covenant must be held applicable to the occupied territories and those areas of southern Lebanon and West Bekaa where Israel exercises effective control. The Committee requests the State party to include in its second periodic report all information relevant to the application of the Covenant in territories which it occupies.

307. The Committee expresses its deep concern at the continued state of emergency prevailing in Israel, which has been in effect since independence. It recommends that the Government review the necessity for the continued renewal of the state of emergency with a view to limiting as far as possible its scope and territorial applicability and the associated derogation of rights. In this regard, the Committee draws attention to article 4 of the Covenant, which permits no derogation from articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18, and requires that permitted derogations be limited to the extent strictly required by the exigencies of the situation.

308. The Committee expresses serious concern about deeply imbedded discriminatory social attitudes, practices and laws against Arab Israelis that have resulted in a lower standard of living compared with Jewish Israelis, as is evident in their significantly lower levels of education, access to health care, access to housing, land and employment. It notes with concern that most Arab Israelis, because they do not join the army, do not enjoy the financial benefits available to Israelis who have served in the army, including scholarships and housing loans. The Committee also expresses concern that the Arabic language, though official, has not been accorded equal status in practice, and that discrimination against members of the Arab minority appears to be extensive in the private sector. In this regard, the Committee urges the State party to take steps without delay to ensure equality to Arabs and to proceed as soon as possible with the planned formulation of a draft law on discrimination in the private sector and to adopt it at an early date.

309. The Committee is concerned that Palestinians in the occupied territories who remain under the control of Israeli security forces do not enjoy the same rights and freedoms as Jewish settlers in those territories, in particular in regard to planning and building permits and access to land and water. The Committee is also concerned at the policies of confiscation of lands and settlement in the occupied territories. The Committee recommends that coordinated and targeted efforts be made to establish basic standards that are applicable equally to all persons under the jurisdiction of Israel.

310. The Committee is also concerned at the discrimination faced by Bedouins, many of whom have expressed a desire to continue to live in settlements in the Negev which are not recognized by the Israeli Government and which are not provided with basic infrastructure and essential services. The Committee recommends that members of Bedouin communities should be given equality of treatment with Jewish settlements in the same region, many of which are also dispersed and populated by small numbers of people.

311. The Committee expresses concern about the situation of women who, despite the advances noted in paragraph 304, continue to face discrimination in many aspects of life, including in military service and in religious institutions, and that they are underrepresented in the conduct of public affairs. The Committee notes that no clear plan of action exists which addresses the situation of the most disadvantaged group of women, namely, those belonging to the Arab minority. The Committee recommends that targeted measures be considered to accelerate progress towards equality, in particular for Arab women.

312. The Committee regrets that women brought to Israel for purposes of prostitution, many under false pretences or through coercion, are not protected as victims of trafficking but are likely to be penalized for their illegal presence in Israel by deportation. Such an approach to this problem effectively prevents these women from pursuing a remedy for the violation of their rights under article 8 of the Covenant. The Committee recommends that serious efforts be made to seek out and punish the traffickers, to institute rehabilitation programmes for the victims and to ensure that they are able to pursue legal remedies against the perpetrators.

313. With respect to article 6 of the Covenant, the Committee is concerned about the number of Palestinians who have been killed by the security forces, as well as all persons who have been the victims of terrorist attacks. The Committee expresses concern at the use of rubber-coated metal bullets by the security forces in the occupied territories in dispersing

demonstrations. This type of rubber bullet is reported to have killed many Palestinians, including children. The Committee urges the State party to enforce rigorously the strict limitations on the operational rules as to the use of firearms and the use of rubber bullets against unarmed civilians. It requests that the next periodic report include precise information on the number of deaths, including those caused by rubber bullets, the number of complaints arising from their use and the number of defence and security personnel that have been punished or disciplined as a result.

314. The Committee regrets the introduction by the Government of a draft law which would deny victims compensation for excesses committed by members of the security forces against Palestinian residents of the occupied territories. It requests that detailed information on these matters be included in the next periodic report of the State party.

315. The Committee is deeply concerned that under the guidelines for the conduct of interrogation of suspected terrorists authority may be given to the security service to use "moderate physical pressure" to obtain information considered crucial to the "protection of life". The Committee notes that the part of the report of the Landau Commission that lists and describes authorized methods of applying pressure remains classified. The Committee notes also the admission by the State party delegation that the methods of handcuffing, hooding, shaking and sleep deprivation have been and continue to be used as interrogation techniques, either alone or in combination. The Committee is of the view that the guidelines can give rise to abuse and that the use of these methods constitutes a violation of article 7 of the Covenant in any circumstances. The Committee stresses that article 7 of the Covenant is a non-derogable prohibition of torture and all forms of cruel, inhuman or degrading treatment or punishment. The Committee urges the State party to cease using the methods referred to above. If legislation is to be enacted for the purpose of authorizing interrogation techniques, such a law should explicitly prohibit all forms of treatment prohibited by article 7.

316. Further in relation to article 7 of the Covenant, the Committee notes that prisoners may be segregated in Israel as a preventive measure for the protection of security, the maintenance of order or to guarantee the safety of the prisoner. Noting that segregation involves substantial isolation and may be extended over long periods of time, the Committee recalls its General Comment 20 (44) in which it noted that prolonged solitary confinement of a detained or imprisoned person may violate article 7. The Committee recommends that efforts be made to avoid prolonged isolation of segregated prisoners.

317. The Committee remains concerned that despite the reduction in the number of persons held in administrative detention on security grounds, persons may still be held for long and apparently indefinite periods of time in custody without trial. It is also concerned that Palestinians detained by Israeli military order in the occupied territories do not have the same rights to judicial review as persons detained in Israel under ordinary law. A specific concern of the Committee is that at least some of the persons kept in administrative detention for reasons of State security (and in particular some Lebanese) do not personally threaten State security but are kept as "bargaining chips" in order to promote negotiations with other parties on releasing detained Israeli soldiers or the bodies of deceased soldiers. The Committee considers the present application of administrative detention to be incompatible with articles 7 and 16 of the Covenant, neither of which allows for derogation in times of public emergency. The Committee takes due note that Israel has derogated from article 9 of the Covenant. The Committee stresses, however, that a State party may not depart from the requirement of effective judicial review of detention. The Committee recommends that the application of detention be brought within the strict requirements of the Covenant and that effective judicial review be made mandatory.

318. While acknowledging the security concerns that have led to restrictions on movement, the Committee notes with regret the continued impediments imposed on movement, which affect mostly Palestinians travelling in and between East Jerusalem, the Gaza Strip and the West Bank, and which have grave consequences affecting nearly all areas of Palestinian life. The Committee considers this to raise serious issues under article 12. In regard to persons in these areas, the Committee urges Israel to respect the right to freedom of movement provided for under article 12, including the right to return to one's country.

319. In regard to Palestinians who are resident in East Jerusalem, the Committee is concerned that the increasingly restrictive conditions for maintaining the right to permanent residence, the denial of requests for family reunification and the difficulty

experienced by non-Jews in obtaining building permits and accommodation have resulted in increasing numbers being forced to move to the occupied territories. The Committee expresses its profound concern at the effect of the unpublished directive of the Ministry of the Interior, under which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their "centre of life" for the past seven years. The Committee notes that this policy is being applied retroactively to both Palestinians who live abroad and to those who live in the West Bank or in nearby Jerusalem suburbs, but not to Israeli Jews or to foreign Jews who are permanent residents of East Jerusalem. The Committee recommends that the rules and procedures relating to permanent residency status be applied without discrimination.

320. The Committee deplores the demolition of Arab homes as a means of punishment. It also deplores the practice of demolitions, in part or in whole, of "illegally" constructed Arab homes. The Committee notes with regret the difficulties imposed on Palestinian families seeking to obtain legitimate construction permits. The Committee considers the demolition of homes to conflict directly with the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one's home (art. 17), the freedom to choose one's residence (art. 12) and equality of all persons before the law and equal protection of the law (art. 26).

321. The Committee is also concerned that the Israel Lands Administration (ILA), responsible for the management of 93 per cent of land in Israel, includes no Arab members and that while ILA has leased or transferred land for the development of Jewish towns and settlements, few Arab localities have been established in this way until recent years. The Committee recommends that urgent steps be taken to overcome the considerable inequality and discrimination which remain in regard to land and housing.

322. The Committee regrets that the authorities appear to be placing obstacles in the way of family reunion in the case of marriages between an Israeli citizen and a non-citizen who is not Jewish (and therefore not entitled to enter under the Law of Return). These obstacles, which include long waiting periods for entry permits, a "probation" period of over five years' residence to establish that the marriage is genuine and a further waiting period for citizenship, are applied even more rigorously in the case of Arab citizens, particularly those who marry persons resident in the occupied territories. The Committee considers such obstacles to be incompatible with articles 17 and 23. It is recommended that the Government reconsider its policies with a view to facilitating family reunion of all citizens and permanent residents.

323. The Committee is concerned that Arab women citizens of Israel have in some cases been required to relinquish their citizenship should they marry a Palestinian and apply for residence in the occupied territories. It welcomes the Israeli Government's response that this policy no longer applies and recommends that those already affected be made fully aware of the relevant legal provisions and that their status be restored.

324. The Committee is concerned at the preference given to the Jewish religion in the allocation of funding for religious bodies, to the detriment of Muslims, Christians, Druze and other religious groups. The Committee recommends that regulations and criteria for funding be published and applied to all religious groups on an equal basis.

325. The Committee is concerned that the application of religious law to determine matters of personal status, including marriage and divorce, and the absence of provision for civil marriage effectively deny some persons the right to marry in Israel, and result in inequality between men and women. It is also concerned that the minimum age of marriage for girls, fixed by law at 17, may be reduced by the religious courts, and that no minimum age is fixed for men. The lack of provision for civil burial is also a matter of concern. The Committee urges early implementation of measures currently under consideration to facilitate civil marriages and civil burial for those who do not belong to a religion. It recommends that the State party take into account international standards for the age of majority in its current review of the minimum marriageable age for men and women.

326. The Committee recommends that the Government consider ratifying the Optional Protocol to the Covenant.

327. The Committee requests that the Government of Israel submit its second periodic report by June 2000. It also requests that the next report include information on the

implementation of the Covenant in all lands over which Israel exercises effective control during the period covered by the report.

328. The Committee recommends the publication and distribution of the concluding observations of the Committee to public bodies, media agencies, and non-governmental organizations working in the area of human rights.

M. Italy

329. The Committee considered the fourth periodic report of Italy (CCPR/C/103/Add.4) at its 1679th and 1680th meetings, on 17 July 1998, and at its 1693rd meeting on 28 July 1998, adopted the following observations.

A. Introduction

330. The Committee expresses its appreciation to the State party for its report and for the provision, by its delegation, of further information about developments of the human rights situation in Italy up to the time of the examination. It notes that the dialogue between the Committee and the delegation proceeded in a satisfactory manner in the course of the examination itself. The answers and explanations given by the delegation have enabled the Committee to grasp not only the legal norms and enactments governing the obligations set out in the Covenant, but also the extent to which these rights may actually be enjoyed by the people of the country.

B. Positive aspects

331. The Committee is pleased to note that Italy has ratified the Second Optional Protocol to the Covenant and that in 1996 the Constitutional Court reinforced the right to life by declaring unconstitutional the law ratifying a treaty of extradition on the grounds that there was no absolute guarantee in law that the person concerned would not be executed.

332. The Committee commends the action taken to reduce the length of a nominal life sentence to a maximum finite sentence.

333. It is noted with appreciation that the judiciary has begun to treat offences concerning trafficking of women and others for the purpose of prostitution as acts which can be assimilated to slavery and contrary to international and national law.

334. The Committee welcomes the institution of the Ministry of Equal Opportunities and the 1997 plan to implement the results of the Fourth World Conference on Women.

335. The Committee appreciates the recent changes in legislation concerning controls applied to illegal immigrants, which improve their rights while awaiting a decision on admission and the possibility of family reunion in the case of admission and which bring more into line with article 13 the guarantees for such persons before they may be deported.

336. Legislation has been passed to regulate the collection and use of personal computerized data along with another measure subjecting wire-tapping to strict control, both of which, in the Committee's opinion, assist in the implementation of article 17 of the Covenant.

337. The Committee welcomes the establishment of the National Observatory on Religious Freedom and the fact that its activities include dealing with complaints about constraints on religious freedom.

338. The Committee notes with satisfaction that with regard to its concerns, expressed on concluding its examination of Italy's third periodic report, about the excessive concentration of control of the mass information media in the hands of a small group of people, new laws regulating the extent of control of such media have been passed to overcome this situation.

C. Principal subjects of concern and recommendations

339. The Committee reiterates its regret that Italy has still not withdrawn any of its reservations to the Covenant; it recommends that all the reservations should be reconsidered with the objective of determining whether their continuance is really necessary.

340. The Committee regrets that there remain structural and cultural problems preventing the full enjoyment by women of equal opportunities in public and political life and in employment and that equal pay is often not given for work of equal value. It recommends that urgent steps be taken, by way of education, encouragement and legal means, to reduce or eliminate these inequalities. The Committee would like to receive information on the de facto situation of women, including statistics, in the next report.

341. The Committee remains concerned at the inadequacy of sanctions against police and prison officers who abuse their powers. It recommends that due vigilance be maintained over the outcome of complaints made against members of the carabinieri and against prison officers.

342. The Committee recommends that the maximum period during which a person may be held in custody following arrest on a criminal charge be reduced, even in exceptional circumstances, to less than the present five days and that the arrested person be entitled to access to legal advice as soon as he or she is arrested.

343. The Committee has again paid close attention to the Italian system of holding offenders, before and after trial, in "preventive detention" until the final stages of any possible appeal have been exhausted and the sentence has been finalized. It notes that the maximum period for such detention is set by reference to the penalty for the offence of which the person stands accused, and can last up to six years; this could constitute an infringement of the presumption of innocence (art. 14, para. 2) and the right to the principle of a fair trial within a reasonable time or to release (art. 9, para. 3). The Committee therefore recommends that (i) the linkage between the offence with which a person has been charged and the length of detention from the time of arrest up to final sentence should not be maintained; and (ii) that the grounds for preventive detention be restricted to those cases in which such detention is essential to protect legitimate interests, such as the appearance of the accused at the trial.

344. The Committee notes that changes in the Code of Criminal Procedure have resulted in some reduction in the numbers of persons held in "preventive detention". It is concerned, however, that prison overcrowding remains a serious problem and recommends that urgent attention be paid to the rectification of this situation (art. 10).

345. The Committee's attention has been drawn to steps taken to speed up both criminal and civil trials, but it is concerned that, so far, no result has become apparent. It therefore recommends that further measures be taken to increase the efficiency and promptness of the entire system of justice (art. 14, para. 3 (c)).

346. The Committee is concerned at the increase in incidents of racial intolerance. It recommends that all measures by way, for example, of legal constraint and education be continued to eradicate this phenomenon (arts. 3 and 26).

347. It is noted that delays continue to occur with respect to passing legislation concerning the following: the introduction into the Criminal Code of the offence of torture as defined in international law (art. 7); the provision of both criminal and civil sanctions against those who perpetrate domestic violence (arts. 3, 23 and 24); the introduction of measures giving effect to further improvement of the rights of persons belonging to ethnic, religious and linguistic minorities and for the protection of the rights of the Slovenian minority (art. 27).

348. The Committee requests the State party to ensure the wide dissemination in Italy of the State party's report and the Committee's concluding observations, and to inform the Committee of steps taken to implement the observations in its fifth periodic report, due in June 2002.

N. Algeria

349. The Committee considered the second periodic report of Algeria (CCPR/C/101/Add.1) at its 1681st to 1684th meetings, on 20 and 21 July 1998, and at its 1696th meeting, on 29 July 1998, adopted the following observations.

A. Introduction

350. The Committee commends the State party for addressing some of the issues raised in the Committee's concluding observations (CCPR/C/79/Add.1) following the examination of Algeria's initial report (CCPR/C/62/Add.1) in 1992. It notes that Algeria's second periodic report was submitted with a delay of more than two years. While acknowledging that the report and subsequent submissions provided information as to the laws and regulations adopted by the Algerian Government to implement the provisions of the Covenant, the Committee observes that it does not provide sufficient specific data on the prevailing human rights crisis. The Committee regrets that many of its questions were not fully answered by the delegation and welcomes Algeria's undertaking to submit additional written information in response to questions raised by Committee members during two days of dialogue, which was characterized by a sense of solidarity by the Committee with the suffering of the Algerian people.

B. Factors and difficulties affecting the implementation of the Covenant

351. Widespread and indiscriminate attacks against the civilian population, involving the loss of innumerable human lives, and a general climate of violence heighten the responsibilities of the State party to re-establish and maintain the conditions necessary for the enjoyment and protection of fundamental rights and freedoms in Algeria.

C. Positive factors

352. The Committee welcomes the establishment of the National Observatory for Human Rights, and the Médiateur de la République (Ombudsman of the Republic), with competence to receive complaints from individuals about human rights violations.

353. The Committee commends the establishment of the National Committee for the Preservation and the Promotion of Women, and the increased participation of women in public life.

D. Principal subjects of concern and recommendations

354. The Committee is appalled at the widespread massacre of men, women and children in a great number of villages and towns. The Committee is also seriously concerned that women have been the victims of not only killings, but also of abduction, rape and severe violence. The Committee is also concerned at the lack of timely or preventive measures of protection to the victims from police or military officials in the vicinity and at the persistent allegations of collusion of members of the security forces in terrorist attacks. Therefore:

The Committee urges the State party to adopt effective measures:

(a) To prevent those attacks and, if they nevertheless occur, to come promptly to the defence of the population;

(b) To ensure that proper investigations are conducted by an independent body to determine who the offenders are and to bring them to justice; and

(c) In all cases of massacres, to conduct an independent enquiry into the conduct of the security forces, from the lowest to the highest levels, and, where appropriate, to subject them to penal and disciplinary sanctions.

355. The Committee is further concerned at the less than satisfactory responses from the delegation, with regard to innumerable reports of arbitrary or extrajudicial executions of individuals, some while in custody, others under suspicion of being associated in one way or another with terrorist groups. In regard to the foregoing:

The State party should urgently ensure that:

(a) Independent mechanisms be set up to investigate all violations of the right to life and security of the person;

(b) The offenders be brought to justice;

(c) Access be given as soon as possible to the International Committee of the Red Cross and other independent observers.

356. The Committee is concerned about the meagre information provided by the Government, both in its report and its oral presentation and in its responses to questions raised by the Committee, regarding the organization of "legitimate defence groups", their official recognition, competence, supervision and training. Serious questions arise as to the legitimacy of the transfer of such power by the State to private groups, especially in view of the power which the State itself confers on them and the very real risk to human life and security entailed by the exercise of that power, coupled with the risks of unsanctioned abuse. Therefore:

> The Committee recommends that the Government urgently take measures to maintain within its police and defence forces the responsibility of maintaining law and order and the protection of the life and security of the population and, in the meantime, to ensure that these defence groups are brought under the strict and effective control of responsible State organs, and that they are promptly brought to justice in the case of abuse.

357. Notwithstanding the denial by the Algerian delegation that torture is not practised by certain authorities, the Committee is deeply concerned about persistent allegations of systematic torture. The Committee deplores the apparent routine acceptance by trial court judges of confessions extracted under duress, even when there is medical evidence of torture, and calls on the State party to take all necessary measures to redress this situation. In this regard:

The Committee urges the State party to ensure:

(a) A credible system for monitoring treatment of all detainees so as to ensure that they are not subject to torture or to cruel, inhuman or degrading treatment;

(b) That all specific allegations be investigated by an impartial body and that the results of such investigations be published;

(c) That officials involved in torture be prosecuted and, if convicted, severely punished.

358. Given the unsatisfactory responses of the delegation and the number of complaints from family members, the Committee is gravely concerned at the number of disappearances and at the failure of the State to respond adequately, or indeed at all, to such serious violations. Disappearances may involve the right to life consecrated under article 6 of the Covenant, and where the disappeared individuals are still alive and are kept incommunicado, disappearances may involve the right guaranteed under article 16 of the Covenant which provides that every individual shall have the right to recognition everywhere as a person before the law. In this situation these individuals are also deprived of their capacity to exercise all the other rights, without any recourse, recognized under the Covenant. Furthermore, disappearances violate article 7 with regard to the relatives of the disappeared. Therefore:

> The Committee urges the State party to adopt measures to establish a central register to record all reported cases of disappearances and day-to-day action taken to retrace the disappeared, and to assist the families concerned to retrace the disappeared.
>
> The Committee further requests the State party, in its next periodic report, to give an account of the number of cases reported, the investigations conducted and the results achieved.

359. The Committee has noted that, while the Emergency Decree of 1992 relating to "subversion of terrorism" has been repealed, some of its provisions have been incorporated in the normal penal laws. Those provisions prescribe an increased number of offences for which the death penalty may be imposed; a lowering of the age to 16 for which a person may be liable to such a penalty; an extension from 2 to 12 days for which a suspect may be administratively detained incommunicado; and a definition of "terrorist" or "subversive" activities which lends itself to abuse. Therefore:

> The Committee recommends that the amendments to the Penal Law be brought into strict compliance with articles 6 and 9 of the Covenant.

360. The National Observatory for Human Rights has conceded in its annual report for 1996 that places of detention exist which are outside the control legally stipulated by law. This reinforces allegations from many sources on detention of people who are not registered and brought before the courts, as required both by Algerian law and article 9 of the Covenant. Therefore:

> The State party must ensure that:
>
> (a) Nobody may be arrested or detained "outside the law";

(b) Complaints about such arrest or detention be given immediate attention and relatives, friends or lawyers of persons detained are able to receive an effective remedy, which includes reviewing the legality of the detention;

(c) All persons arrested be kept at officially designated places of detention; their families be immediately informed; they have immediate access to a lawyer; and they are promptly charged and brought to trial;

(d) Their detention should not exceed the limit provided by law and they have a right to medical examination on arrest and at the end of their detention.

361. With regard to the guarantee of equal treatment of women in the enjoyment of all the rights guaranteed to them, the Committee notes the statement made by the delegation that the interpretative declaration concerning article 23, paragraph 4, of the Covenant made by Algeria on ratification of the Covenant would become obsolete with time. The Committee also notes that progress has been achieved by women in public life and civil society. Nevertheless, the Family Code still contains important areas of inequality which are not in conformity with articles 3, 16, 23 and 26 of the Covenant in respect of which Algeria has made no reservations. In this regard, the Committee notes that under the Family Code, a woman's consent to her first marriage is generally mediated by a male guardian, and that this guardian can deny the woman her choice of a husband. It notes also that the Family Code provides for the husband to be the head of the family and for the possibility of polygamous marriage, and that it precludes a woman from marrying a non-Muslim while the same restriction does not apply to a man. Therefore:

> The Committee recommends that the State party should bring its legislation into conformity with all the rights to which women are entitled under articles 3, 16, 23 and 26 of the Covenant.

362. With regard to the judiciary, the Committee is concerned that the application of certain executive decrees of 1992 regulating nomination, promotion and dismissal of judges, compromises its independence. It is also concerned at the fact that judges enjoy immovability only after 10 years of work. In this regard:

> The Committee should like to receive additional information on the procedure for designating, electing and dismissing judges. The Committee recommends that appropriate measures be taken to ensure the full independence of the judiciary.

363. The Committee notes the statement of the delegation that the intention underlying the Arabic Language Decree which came into force on 5 July 1998 was to reinforce the status which that national language should possess. The Committee notes, however, that the compulsory, immediate and exclusive use of that language in all areas of public activity

would in effect impede large sections of the population who use Berber or French in the enjoyment of the rights guaranteed under articles 19, 25, 26 and 27 of the Covenant. Therefore:

> The Committee recommends that the law should be urgently reviewed so as to remove the negative consequences that it produces.

364. The Committee welcomes the abolition of the State-controlled "reading committees" stationed at publishing establishments, as well as the formal directives prohibiting the publication of unauthorized information relating to "security issues". The Committee notes, however, that in practice numerous restrictions still persist with regard to freedom of expression dealing with, for example, coverage of allegations and discussion of corruption and criticism of government officials and of material regarded as an expression of sympathy or encouragement of subversion, all of which gravely prejudice the right of the media to inform the public and the right of the public to receive information. The Committee is also deeply concerned at the threats against and assassinations of journalists, human rights defenders and lawyers. In this regard:

> The Committee recommends that current legislation should be reviewed so as to protect fully the right to freedom of thought and opinion and freedom of expression as guaranteed under articles 18 and 19 of the Covenant.

365. The Committee remains concerned that the State party's restriction under Law 97-09 on the right to form political parties effectively prohibits political activists the right to associate with one another or to vote for representatives of their choice, in view of the wide range of proscribed categories (religious, linguistic, racial, gender-related, regional, corporatist). Since taking effect, this law has been invoked to ban or prevent the legalization of more than 30 parties. Therefore:

> The Committee recommends that the conditions required by the Covenant with respect to restrictions on the right to freedom of association be met and that current legislation be amended so as to bring it into conformity with the requirements of the Covenant and the obligations entered into by Algeria upon its accession to it.

366. The Committee observes that, although Algeria became a party to the Optional Protocol in 1989, very few communications have been addressed to the Committee, in spite of the widespread human rights crisis and consequent violations which have occurred in the past decade. This situation indicates that the people in Algeria may not be aware of their right to address communications to the Committee. Therefore:

> The Committee recommends that urgent steps be taken by Algeria to make known to the public, the universities, the legal community and, particularly, the non-governmental human rights organizations, the rights protected under the Covenant and the fact that individuals whose rights have been violated may submit communications to the Committee.

367. The Committee draws to the attention of the Government of Algeria the provisions of paragraph 6 (a) of the Guidelines Regarding the Form and Contents of Periodic Reports from States Parties, and requests that its next periodic report, due in June 2000, should contain material which responds to all the present concluding observations. The Committee further requests that Algeria's second periodic report and these concluding observations be widely disseminated among the public at large in all parts of Algeria.

O. The former Yugoslav Republic Of Macedonia

368. The Committee considered the initial report of the former Yugoslav Republic of Macedonia (CCPR/C/74/Add.4) at its 1685th to 1687th meetings, on 22 and 23 July 1998, and at its 1696th meeting, adopted the following observations.

A. Introduction

369. The Committee expresses its appreciation to the State party for its comprehensive initial report, prepared largely in accordance with the Committee's guidelines. At the same time, it notes that the information provided in the report deals primarily with legal and institutional issues and does not contain sufficient data on the practical application of the Covenant.

B. Factors and difficulties impeding the application of the Covenant

370. The Committee takes note of the statement of the delegation that the principal difficulty in ensuring effective implementation of the Covenant lies in the complex and difficult process of transition from a political and social environment shaped for decades by the concept of collective rights to a respect for the rights of individuals. It also notes that the same tradition inhibits individuals from impugning State actions through the courts and other agencies established for the purpose, and through the Optional Protocol. Continuing ethnic tensions, particularly concerning the Albanian minority, also remain a matter of major concern.

C. Positive aspects

371. The Committee notes with satisfaction that the Government of the former Yugoslav Republic of Macedonia is attempting to ensure the protection accorded under the Covenant to its population in a period of fundamental change of political and economic systems and a redefinition of State institutions. It observes that the level of that protection has been further reinforced by the ratification of the two Optional Protocols to the Covenant.

372. The Committee welcomes the fact that, by virtue of article 118 of the Constitution, the Covenant is a part of the internal legal order which cannot be changed by domestic legislation, and that its provisions may be directly invoked before the courts.

373. The Committee welcomes the commitment made by the State party to proceed with the reform of the judicial system and of the system of penitentiary institutions.

374. The Committee considers the passage of the Law on the Ombudsman, in February 1997, and the subsequent appointment by the Parliament of the Ombudsman as an important element in the building of an effective system of institutional protection of Covenant rights.

375. The Committee commends the State party for the enactment of legislation designed to comply with the anti-discrimination provisions of the Covenant (arts. 2, 20, 26 and 27), including the Act on Public Information, the Act on Telecommunications and the Law on Broadcasting, which prohibit the use of mass media to incite national, racial or religious hatred or intolerance; the Act on Political Parties, which prohibits the establishment of parties whose aim is the incitement to national, racial or religious hatred and intolerance; the Act on Social Organizations and Citizens' Associations, which also prohibits activities that violate human rights or encourage national, racial or religious hatred or intolerance; and the Assembly Declaration of 1997 on the promotion of inter-ethnic relations.

376. The Committee also commends the State party for its cooperation with non-governmental organizations and foundations, including the Macedonia Centre for International Cooperation, the Open Society Institute, and women's organizations. It further welcomes the dissemination given to the Covenant and the Optional Protocol in the Macedonian language and in the languages of the ethnic minorities.

D. Principal subjects of concern and the Committee's recommendations

377. The Committee expresses serious concern at ethnic violence involving the police in Gostivar on 7 July 1997, in the course of which three persons lost their lives and hundreds were wounded. It is also concerned at indications that all fair-trial guarantees were not met in dealing with local officials. The Committee recommends that these events be

thoroughly investigated by an independent body, that those found responsible be subjected to appropriate penal or disciplinary sanctions, and that all necessary measures be taken to prevent their recurrence anywhere within the country.

378. The Committee is concerned by reported cases of abuse of police authority, including unlawful arrest and detention, excessive use of force - especially against members of minority groups - and physical ill-treatment of detainees. The Committee recommends that the persons responsible be subjected to appropriate disciplinary or penal sanctions and, further, that the Government strengthen training programmes on human rights for the police and establish permanent mechanisms for ongoing instruction with the participation of international agencies and experts in the field.

379. The Committee also notes with concern the continued application of restrictive legislation inherited from the previous regime in various fields, including concerning the importation of foreign printed materials. The existence and application in practice of such laws may violate the Covenant's provisions and, in more general terms, make the degree of its incorporation into the domestic legal system uncertain. The Committee recommends that the State party ensure that persons under its jurisdiction enjoy the right to seek and impart information, as provided for in article 19 of the Covenant, and repeal any legislation which runs counter to those rights.

380. The Committee considers that the principle of equality between men and women is far from being implemented in practice, particularly in the spheres of employment and education, in spite of progress in some areas such as the judiciary. It takes note of the activities of the Department for the Promotion of Gender Equality and other governmental initiatives to overcome deeply rooted stereotypes and traditions, and recommends that further measures to ensure genuine equality be undertaken without delay.

381. While noting that marital rape has been considered a crime since 1996, the Committee regrets that domestic violence against women is reported to be widespread. It recommends that concerted action be taken by all public authorities to reduce the incidence of domestic violence and to strengthen the remedies which are open to women who are subjected to it.

382. The Committee is concerned at the continuation of the practice of forcing citizens to attend so-called "informative talks" in spite of a decision of the Constitutional Court and the enactment of the new Law on Criminal Procedures, both of which provide that police may not compel such attendance without a court order. Such practices and the failure to give full effect to the new Law are incompatible with provisions of article 9 of the Covenant.

383. The Committee notes the increase since 1990 in minority participation in political, administrative, cultural and other institutions, but expresses its concern at the fact that it is still well below a level commensurate with their proportion of the population. The Committee encourages the State party to strengthen its programmes to increase the representation of the Albanian and other ethnic minorities in public life, including the civil service, army and police. The Roma population are a matter of particular concern. The Committee further recommends that the State party continue to encourage minority participation in the design, organization and functioning of the educational system, in particular at the secondary and higher educational levels, and provide for the training of teachers of minority languages in public establishments.

384. The Committee recommends that the State party disseminate widely the text of its initial report, as well as the present concluding observations. It further requests that its second periodic report, due in June 2000, include material which addresses itself to those observations.

P. United Republic Of Tanzania

385. The Committee considered the third periodic report of the United Republic of Tanzania (CCPR/C/83/Add.2) at its 1689th and 1690th meetings, on 24 July 1998, and at its 1697th meeting, on 30 July 1998, adopted the following observations.

A. Introduction

386. The Committee welcomes the third periodic report submitted by the Government of the United Republic of Tanzania and notes that certain further information was provided by the delegation; it regrets, however, that the report did not fully comply with the Committee's guidelines and that the delegation addressed only in part the Committee's list of issues and was not in a position to answer fully members' oral questions.

B. Factors and difficulties affecting the implementation of the Covenant

387. Since the consideration of the last periodic report there has occurred an enormous influx of refugees into the United Republic of Tanzania from neighbouring countries and from Somalia. The volume has been such that individual assessment has been impossible except in a few cases; all the rest of these persons have consequently either been confined to camps where the conditions are primitive and which the State party has insufficient resources properly to police, or otherwise left to fend for themselves among the local villagers.

C. Positive factors

388. The restoration of political pluralism, by means of amending the Constitution, has enabled the whole population to participate in all aspects of public affairs (art. 25).

389. The courts have demonstrated a willingness to examine the actions of the Government and its agencies for compliance with the Constitution, as exemplified in the interim injunction suspending the deregistration of Baraza la Wanawake wa Tanzania (BAWATA), an important women's organization.

390. Many limitations on freedom of expression have been eased on the Tanzanian mainland for the press, radio and television (art. 19).

391. The Committee notes with approval that a large reduction has been achieved in the employment of children in the gemstone industry, but makes a recommendation in that regard (see para. 409 below).

392. The Committee commends the proposal to establish a Constitutional Court to oversee, among other things, full respect for human rights.

D. Subjects of concern and the Committee's recommendations

393. The Nyalali Commission submitted a report in 1992. Although its major constitutional proposals have been implemented, there remain in force numerous acts and ordinances which it recommended for repeal or amendment. The Commission recommended the repeal of: the Emergency Powers Act 1986 (art. 4); certain aspects of the Human Resources Deployment Act 1983 which led to forced labour on communal projects (art. 8); powers of the President to detain persons (incommunicado for a period) without trial, under the Preventive Detention Act 1962 (art. 9); punishment under the Witchcraft Ordinance 1928 (arts. 7 and 10). The Commission further recommended that registration of societies under the Societies Ordinance 1954 be amended to provide for a separate Registrar and for appeal from his decisions (arts. 18 and 22). The Committee regrets that none of these proposals has been implemented and expresses the view that the Commission has accurately identified all these provisions as infringing human rights which are also protected by the Covenant; its proposals reinforce a number of the Committee's recommendations made on the examination of the second periodic report and reflect many of the Committee's current concerns. The Committee therefore recommends that priority be given to implementing the proposed reforms.

394. While the Committee is encouraged to hear that the courts are beginning to refer to the Covenant in judgements, it recommends that the Covenant be given formal recognition and applicability in domestic law (art. 2).

395. The Committee appreciates recent changes in the law so as to criminalize rape between separated spouses and the practice of female genital mutilation, as well as the power of a court to hear sexual abuse cases in private; however, it is concerned that traditional

customs inhibit complaints on these matters, and that marital rape as such is not recognized as a criminal offence. The Committee recommends that information be promulgated about these remedies and that the State party take action to support women who are entitled to take advantage of them (arts. 3 and 26).

396. The Committee is concerned at the application of personal laws which discriminate against women with respect, inter alia, to marriage, divorce, land and inheritance. The Committee is also concerned that customary attitudes discourage women from pursuing their full educational rights and that, as a result, they tend to lack the qualifications needed to reach higher levels of achievement in all aspects of activity, such as the senior judiciary, and are under-represented in political spheres. The Committee recommends that the State party put an end to these discriminatory laws and practices; that action be taken to increase the number of girls' schools; that persuasion be exerted on society to insist on girls' attendance at school; and that support be given to young women who wish to pursue higher education (arts. 3, 25 and 26).

397. The Committee is concerned that:

(a) The Law of Marriage Act discriminates against women with regard to the minimum age for marriage;

(b) Section 138 (6) of the Penal Code allows any person of African or Asian descent to marry, or permit the marriage of a girl under the age of 12, provided that there is no intention to consummate the marriage until she attains that age. It recommends that these discriminatory features be eliminated from the law (arts. 3 and 26).

398. The Committee urges the State party to publish details on sentences to the death penalty, on the mainland and in Zanzibar; such sentences have not been carried out recently in either part of the country, and the Committee recommends that this penalty be abolished (art. 6).

399. The Committee deplores the law in force in Zanzibar which allows for the imprisonment of both mother and father in the event of an unmarried woman becoming pregnant. In the Committee's view, this carries risks to the right to life (art. 6) (through resort to illegal abortion) and to the rights of the child (arts. 23 and 24) if born in such circumstances. It recommends the abolition of this law in Zanzibar and, noting in this connection that illegal abortion is a major cause of maternal mortality, that a national review be carried out on the restrictions on abortions (arts. 3, 6 and 26).

400. The Committee notes with approval the Nyalali Commission's recommendation to abolish corporal punishment as a judicial sentence; such penalty should also be precluded for offences against prison regulations and children should no longer be subjected to corporal punishment in schools (art. 7).

401. Despite the problems concerning the volumes of refugees entering and remaining in the country, the Committee urges that no refugee be returned to another State unless it is certain that, once there, he or she shall not be executed or subjected to torture or other form of inhuman treatment (arts. 6, 7 and 13).

402. The Committee regrets the absence of training for the police in human rights and in the proper use of riot equipment, such as "rubber bullets". It takes note of actions by the police resulting in homicide, and is generally concerned that investigation of complaints against the police is carried out by the police themselves. It recommends that thorough training for the police be provided and that an independent mechanism be set up for investigating complaints (arts. 7 and 9).

403. The Committee is concerned about reports of armed groups ("sungu-sungu") which act as vigilantes and may commit abuses of human rights. It notes with approval the Nyalali Commission's recommendation that no militia be allowed to operate without specific legislative approval and recommends that, in any event, any such militia be properly trained and that their activities be subject to full supervision by the courts (arts. 7 and 9).

404. The Committee notes that it is accepted that prison conditions have deteriorated; there is reported overcrowding, rape and other sexual abuse of female prisoners, and a failure to comply with minimum standards. It recommends that resources be made available to remedy this

situation and that training in human rights be given to prison officers, a sufficient number of female officers be recruited to ensure that only such officers are in charge of female prisoners. It also urges that alternatives to a sentence of imprisonment be made more widely available to the courts and that the judiciary be encouraged to use these alternatives, in appropriate cases, when passing sentence (art. 10).

405. The Committee urges the abolition of imprisonment for inability to pay a debt and that a study be carried out of alternative means of enforcing judgement debts, such as are currently in operation in other countries (art. 11).

406. The Committee regrets that the large number of election petitions currently before the High Court has so clogged the system that other proceedings, including trials for homicide, have been inordinately delayed. It is concerned that some two and a half years after an election, adjudication on the right of a person to sit in Parliament is still awaited. It is also concerned that case conferences (to expedite proceedings) convened by the courts themselves have offered no solution. The Committee recommends that suitable measures be adopted to extinguish the backlog of pending cases, and that a more expeditious procedure be adopted to determine electoral disputes (arts. 14 and 25).

407. The Committee calls on the State party to protect the freedom of an adult individual's sexual conduct and to bring its laws into conformity with article 17 of the Covenant.

408. The Committee notes with concern the high level of domestic violence. It recommends that specific revisions be introduced in legislation to provide civil and criminal remedies for such actions against the person responsible (art. 23).

409. The Committee remains concerned about the employment of children in industrial and agricultural activities. It urges the State party to take further steps to counter this continuing violation of children's rights (art. 24).

410. The Committee recommends the establishment of an independent body to oversee respect for and to disseminate knowledge of human rights, whether by an expansion of the powers of the existing Permanent Mission of Enquiry or by the creation of another mechanism.

411. There remain unanswered several concerns of the Committee, which were noted by the delegation, and it is anticipated that full, up-to-date answers will be provided in the fourth periodic report.

412. The Committee recommends that the Government of the United Republic of Tanzania submit its fourth periodic report by June 2002. It requests the Government to ensure the widespread dissemination of these concluding observations throughout the population, in Swahili as well as in other languages. It further recommends that publicity be given to the right of individuals to make use of the Optional Protocol and the means of so doing.

VI. GENERAL COMMENTS OF THE COMMITTEE UNDER ARTICLE 40, PARAGRAPH 4, OF THE COVENANT

413. Following the notification of the Government of the Democratic People's Republic of Korea, dated 27 August 1997, purporting to denounce the International Covenant on Civil and Political Rights, the Committee considered the question whether denunciation is permissible under the Covenant. At its 1631st meeting, on 29 October 1997, the Committee adopted General Comment No. 26(61) (CCPR/C/21/Rev.1/Add.8) on issues relating to the continuity of obligations under the International Covenant on Civil and Political Rights (annex VII).[1]

414. At its sixty-second session, Mr. Eckart Klein submitted to the Committee a draft general comment on article 12. There was a general discussion of the draft in plenary. The working group of the sixty-third session discussed and amended the revised draft and submitted it to the plenary. The Committee continued its discussion and agreed to part of the text at its 1678th meeting, on 16 July 1998. The Committee will continue consideration of the draft at its sixty-fourth session.

415. A working group was established at the sixty-first session to review the letter dated 25 June 1997 from Mr. Louis Joinet, Chairman/Rapporteur of the Working Group on the Administration of Justice of the Subcommission on Prevention of Discrimination and Protection of Minorities, requesting the Committee to consider preparing an amendment to its general comment on article 4. At its sixty-second session, the Committee noted the comments in Mr. Joinet's letter and agreed that these would be taken into account by the Committee in due course when amending its general comment 5(13) on article 4 of the Covenant. The Committee would also take account of issues referred to in Commission on Human Rights resolution 1997/21 on minimum humanitarian standards, referred to in paragraph 18 above.

416. At its sixty-second session, Mrs. Cecilia Medina Quiroga submitted to the Committee a draft general comment on article 3 of the Covenant, revising and replacing general comment 4(3).

417. Other general comments which the Committee has agreed to prepare will deal with articles 2, 21 and 22.

Notes

[1] On 29 October 1997, the Chairperson wrote to the Ambassador of the Democratic People's Republic of Korea emphasizing that the Human Rights Committee is the only competent body established by the Covenant to address questions relating to States parties' reports submitted under article 40 of the Covenant. The letter enclosed a copy of the general comment, and expressed the hope that the Government of the Democratic People's Republic of Korea would reconsider its position and continue its cooperation with the Committee in accordance with the provisions of the Covenant.

VII. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

418. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated by a State party, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. No communication can be considered unless it concerns a State party to the Covenant that has recognized the competence of the Committee by becoming a party to the Optional Protocol. Of the 140 States that have ratified, acceded or succeeded to the Covenant, 92 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, sect. B).

419. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (art. 5, para. 3, of the Optional Protocol). Under rule 96 of the rules of procedure, all working documents issued for the Committee are confidential unless the Committee decides otherwise. However, the author of a communication and the State party concerned may make public any submissions or information bearing on the proceedings unless the Committee has requested the parties to respect confidentiality. The Committee's final decisions (Views, decisions declaring a communication inadmissible, decisions to discontinue a communication) are made public; the name(s) of the author(s) is(are) disclosed unless the Committee decides otherwise.

A. *Progress of work*

420. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 823 communications concerning 56 States parties have been registered for consideration by the Committee, including 58 placed before it during the period covered by the present report (2 August 1997-31 July 1998).

421. The status of the 823 communications registered for consideration by the Human Rights Committee thus far is as follows:

(a) Concluded by Views under article 5, paragraph 4, of the Optional Protocol: 293, including 223 in which violations of the Covenant were found;

(b) Declared inadmissible: 245;

(c) Discontinued or withdrawn: 124;

(d) Not yet concluded, 161 of which 46 have been declared admissible.

422. In addition, the secretariat of the Committee has hundreds of communications on file in respect of which the authors have been advised that further information would be needed before their communications could be registered for consideration by the Committee. The authors of a considerable number of additional communications have been informed that their cases will not be submitted to the Committee, as they fall clearly outside the scope of the Covenant or appear to be frivolous. Other cases, not yet registered, are mentioned in section B below.

423. During the sixty-first to sixty-third sessions, the Committee concluded consideration of 30 cases by adopting Views thereon. These are cases Nos. 532/1993 (*Thomas v. Jamaica*), 554/1993 (*Lavende v. Trinidad and Tobago*), 555/1993 (*Bickaroo v. Trinidad and Tobago*), 564/1993 (*Leslie v. Jamaica*), 569/1993 (*Matthews v. Trinidad & Tobago*), 577/1994 (*Polay Campos v. Peru*), 585/1994 (*Jones v. Jamaica*), 591/1994 (*Chung v. Jamaica*), 609/1995 (*Williams v. Jamaica*), 615/1995 (*Young v. Jamaica*), 617/1995 (*Finn v. Jamaica*), 619/1995 (*Deidrick v. Jamaica*), 623/1995 (*Domukhovsky v. Georgia*), 624/1995 (*Tsiklauri v. Georgia*), 626/1995 (*Gelbakhiani v. Georgia*), 627/1995 (*Dokvadze v. Georgia*), 635/1995 (*E. Morrison v. Jamaica*), 650/1995 (*Perel v. Latvia*), 651/1995 (*Snijders v. Netherlands*), 672/1995 (*Smart v. Trinidad and Tobago*), 676/1996 (*Yasseen and Thomas v. Guyana*), 704/1996 (*Shaw v. Jamaica*), 705/1996 (*D.Taylor v. Jamaica*), 706/1996 (*T. v. Australia*), 732/1997 (*Whyte v. Jamaica*), 733/1997 (*A. Perkins v. Jamaica*), 734/1997 (*McLeod v. Jamaica*), 749/1997 (*McTaggart v. Jamaica*), 750/1997 (*Daley v. Jamaica*), 813/1998 (*Chadee et al. v. Trinidad and Tobago*). The text of the Views in these 30 cases are reproduced in annex XI.

424. The Committee also concluded consideration of three cases by declaring them inadmissible. These are cases Nos. 611/1995 (H. Morrison v. Jamaica), 640/1995 (McIntosh v. Jamaica), 735/1997 (Kalaba v. Hungary). The text of these decisions are reproduced in annex XII.

425. During the period under review, 15 communications were declared admissible for examination on the merits. Decisions declaring communications admissible are not published by the Committee. Procedural decisions were adopted in a number of pending cases (under article 4 of the Optional Protocol or under rules 86 and 91 of the Committee's rules of procedure). The Committee requested secretariat action in other pending cases.

426. The Committee decided to discontinue the consideration of nine communications, Nos. 551/1993 (Espinoza v. Ecuador), 620/1995(Fernandes v. Canada), 622/1995(Bertillo v. Canada), 629/1995 (Sahli v. France), 652/1995 (Richardson v. Canada), 703/1996 (Ross v. Guyana), 715/1996 (Olaskoaga v. France), 738/1997 (Garcia v. Canada) and 745/1997 (Nunes v.Jamaica).[1]

427. Under the Committee's new rules of procedure, in force as of 1 August 1997, the Committee will as a rule decide on the admissibility and merits of a communication together in order to expedite its work under the Optional Protocol. Only in exceptional circumstances will the Committee request a State party to address admissibility only. A State party which has received a request for information on admissibility and merits may within two months apply for the communication to be rejected as inadmissible. Such a request, however, will not absolve the State party from the requirement to submit information on the merits within the set time limit unless the Committee, its Working Group or its designated Special Rapporteur decides to extend the time for submission of information on the merits until after the Committee has ruled on admissibility. In the period under review, the Committee decided in one case to deal first with the admissibility of the communication. Communications received before the new rules of procedure came into force will be dealt with under the old rules, according to which admissibility is considered at the first stage.

B. Growth of the Committee's caseload under the Optional Protocol

428. As the Committee has stated in previous reports, the increasing number of States parties to the Optional Protocol and better public awareness of the procedure have led to a growth in the number of communications submitted to the Committee. The table below sets out the pattern of the Committee's work on communications over the past five calender years to 31 December 1997. The table shows that the number of pending cases has increased each year since 1994 (when the July session was extended).

Communications dealt with, 1993-1997

	(1)	(2)	(3)	(4)	(5)
Year to 31 December	New cases registered	Cases concluded[a] 1 January-31 December	Pending cases at 31 December (4+5)	Pre-admissible cases	Admissible cases
1997	60	56	157	113	44
1996	56	35	153	111	42
1995	68	44	132	91	41
1994[b]	37	63	108	75	33
1993	46	45	134	97	37

[a] Total number of all cases decided (by the adoption of Views, inadmissibility decisions and cases discontinued).

[b] One additional week for communications was held during the July session owing to the increase in backlog.

429. The increase in communications is not fully reflected in the number of new cases that have been registered formally under the Optional Protocol, as shown in the table above. That figure would be considerably higher were it not for the fact that many communications have been waiting for registration for a considerable period, up to a year in some cases. In addition to the delay in registering new cases, other than those considered urgent, there is a growing backlog of correspondence awaiting reply which relates to matters other than cases for registration. Much of the correspondence goes back to 1997.

430. The main reason for those delays is that while the actual number of communications has increased, the number of professional staff dealing with communications under the Optional Protocol has decreased in each of the past three years. The complexity of some complaints and the obligation of staff to ensure that a sufficient number of cases is prepared for the Committee's consideration at each session means that it has not been possible to allocate scarce resources to clear the backlog of unregistered cases and correspondence. A further reduction in the number of professional staff assigned to the Committee's work under the Optional Protocol in the past year meant that there were insufficient resources to carry out the Committee's usual follow-up activities in respect of the 223 cases in which the Committee has found violations under the Covenant.

431. The measures taken by the Committee to expedite its work on communications, described in earlier reports, are unlikely to enable the Committee to overcome all the delays mentioned unless it is supported by a sufficient number of professional Secretariat staff assigned to the Optional Protocol work. The Committee notes, in this connection, that an increasing number of communications are being submitted in languages that are not among the working languages of the Secretariat, and expresses its concern that the lack of Secretariat staff fluent in those languages has contributed to delays in the examination of them. The situation with respect to communications submitted in Russian is a matter of particular concern.

432. The Committee, while fully aware of the financial crisis besetting the Organization, nevertheless emphasizes that in accordance with article 36 of the Covenant, it should be guaranteed the necessary resources for the effective performance of all its functions, including the consideration of communications, and that it has a particular need for staff experienced in the various legal systems and with knowledge of the languages of States parties to the Optional Protocol.

C. Approaches to examining communications under the Optional Protocol

1. Special Rapporteur on new communications

433. At its thirty-fifth session, the Committee decided to designate a Special Rapporteur to process new communications as they were received, i.e., between sessions of the Committee. At the Committee's fifty-third session, in 1995, Mr. Fausto Pocar was designated as Special Rapporteur. In the period covered by the present report, the Special Rapporteur transmitted 57 new communications to the States parties concerned under rule 91 of the Committee's rules of procedure, requesting information or observations relevant to the questions of admissibility and merits. In other cases, the Special Rapporteur issued requests for interim measures of protection pursuant to rule 86 of the Committee's rules of procedure. The competence of the Special Rapporteur to issue, and if necessary to withdraw, requests for interim measures under rule 86 of the rules of procedure is described in the previous annual report (A/52/40, para. 467).

2. Competence of the Working Group on Communications

434. At its thirty-sixth session, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all five members so agreed. Failing such agreement, the Working Group would refer the matter to the Committee. It could also do so whenever it believed that the Committee itself should decide the question of admissibility. While the Working Group could not adopt decisions declaring communications inadmissible, it might make recommendations in that respect to the Committee.

Pursuant to those rules, the Working Group on Communications that met prior to the sixty-first, sixty-second and sixty-third sessions of the Committee declared 13 communications admissible.

435. At its fifty-fifth session, the Committee decided that each communication would be entrusted to a member of the Committee, who would act as rapporteur for it in the Working Group and in the plenary Committee. The role of the rapporteur is described in the previous report (A/52/40, para. 469).

D. Individual opinions

436. In its work under the Optional Protocol, the Committee strives to arrive at its decisions by consensus. However, pursuant to rule 94, paragraph 4, of the Committee's rules of procedure, members can add their individual concurring or dissenting opinions to the Committee's Views. Pursuant to rule 92, paragraph 3, members can append their individual opinions to the Committee's decisions declaring communications inadmissible.

437. During the period under review, individual opinions were appended to the Committee's Views in cases Nos. 532/1993 (Thomas v. Jamaica), 554/1993 (Lavende v. Trinidad and Tobago), 555/1993 (Bickaroo v. Trinidad and Tobago), 615/1995 (Young v. Jamaica), 635/1995 (E. Morrison v. Jamaica), 732/1997 (Whyte v. Jamaica), 704/1996 (Shaw v. Jamaica), 705/1996 (D.Taylor v. Jamaica), 706/1996 (T. v. Australia), 732/1997 (Whyte v. Jamaica), 734/1997 (McLeod v. Jamaica), 749/1997 (McTaggart v. Jamaica) and 813/1998 (Chadee et al. v. Trinidad and Tobago). An individual opinion was also appended to the Committee's decision declaring communication No.640/1995 (McIntosh v. Jamaica) inadmissible.

E. Issues considered by the Committee

438. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its sixtieth session in 1997 can be found in the Committee's annual reports for 1984 to 1997, which, inter alia, contain summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the Views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol are reproduced in annexes to the Committee's annual reports to the General Assembly. The Committee regrets, with serious concern, that volume II of its annual report containing these annexes has not been published for the past three years (see, also, chap. I).

439. Two volumes containing selected decisions of the Human Rights Committee under the Optional Protocol, from the second to the sixteenth sessions (1977-1982) and from the seventeenth to the thirty-second sessions (1982-1988), have been published (CCPR/C/OP/1 and 2).

440. The following summary reflects further developments on issues considered during the period covered by the present report.

1. Procedural issues

(a) Claim not substantiated, under article 2 of the Optional Protocol

441. Article 2 of the Optional Protocol provides that "individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration".

442. Although an author does not need to prove the alleged violation at the admissibility stage, he must submit sufficient evidence substantiating his allegation for purposes of admissibility. A "claim" is, therefore, not just an allegation, but an allegation supported by a certain amount of substantiating evidence. In cases where the Committee finds that the author has failed to substantiate a claim for purposes of admissibility, the Committee has held the communication inadmissible, under rule 90 (b) of its rules of procedure, declaring that the author "has no claim under article 2 of the Optional Protocol".

443. Cases declared inadmissible, inter alia, for lack of substantiation of the claim or failure to advance a claim are communications Nos. 611/1995 (H. Morrison v. Jamaica) and 640/1995 (McIntosh v. Jamaica).

(b) Claims not compatible with the provisions of the Covenant (Optional Protocol, art. 3)

444. Communications must raise an issue concerning the application of the Covenant. In its work under the Optional Protocol, the Committee has on several occasions had to point out that it is not an appeal instance intended to review or reverse decisions of domestic courts and that it cannot be used as a forum for pursuing a complaint on the basis of domestic law. Communications based on a clearly erroneous interpretation of the Covenant, or where the facts as presented do not raise issues under the articles of the Covenant invoked by the author, are declared inadmissible under article 3 of the Optional Protocol as incompatible with the provisions of the Covenant.

445. A case declared inadmissible, inter alia, for incompatibility with the provisions of the Covenant is communication No. 640/1995 (McIntosh v. Jamaica).

(c) The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5, para. 2 (b))

446. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, the Committee has already established that the rule of exhaustion applies only to the extent that those remedies are effective and available. The State party is required to give "details of the remedies which it submitted had been available to the author in the circumstances of his case, together with evidence that there would be a reasonable prospect that such remedies would be effective" (case No. 4/1977 (Torres Ramírez v. Uruguay)). The rule also provides that the Committee is not precluded from examining a communication if it is established that the application of the remedies in question is unreasonably prolonged. In certain cases, a State party may waive before the Committee the requirement of exhaustion of domestic remedies.

447. In the period covered by the present report, communication No. 735/1997 (Kalaba v. Hungary) was declared inadmissible for failure to pursue available and effective domestic remedies.

(d) Interim measures under rule 86

448. Under rule 86 of the Committee's rules of procedure, the Committee may, after receipt of a communication and before adopting its Views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee has applied this rule on several occasions, mostly in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution and who claim that they were denied a fair trial. In view of the urgency of the communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection. Rule 86 has also been applied in other circumstances, for instance in cases of imminent deportation or extradition which may involve or expose the author to a real risk of violation of rights protected by the Covenant. For the Committee's reasoning whether or not to issue a request under rule 86, see the Committee's Views in communication No. 558/1993 (Canepa v. Canada) (A/52/40). Cases in which a request under rule 86 was issued, are, inter alia, cases Nos. 676/1996 (Yasseen and Thomas v. Guyana), 706/1996 (T. v. Australia) and 813/1998 (Chadee et al. v. Trinidad and Tobago).

2. Substantive issues

(a) Right to life (Covenant, art. 6)

449. Article 6, paragraph 2, provides that a sentence of death may be imposed only for the most serious crimes and if not contrary to the provisions of the Covenant. Thus, a nexus is established between the imposition of a sentence of death and observance by State authorities of guarantees under the Covenant. Accordingly, in cases where the Committee found that the State party had violated article 14 of the Covenant, in that the author had

been denied a fair trial and appeal, the Committee held that the imposition of the sentence of death also entailed a violation of article 6. Having concluded that the final sentence of death had been imposed after a trial that failed to comply fully with the requirements of article 14, the Committee found that the right protected by article 6 had been violated, in cases Nos. 704/1996 (Shaw v. Jamaica), 705/1996 (D. Taylor v. Jamaica), 734/1997 (McLeod v. Jamaica) and 750/1997 (Daley v. Jamaica).

450. In case No. 706/1996 (T. v. Australia), the Committee had to determine whether the author's deportation from Australia to Malaysia, after having served a sentence of imprisonment in Australia for illegal importation of 240 grams of heroin, exposed him to a real risk of a violation of his rights under the Covenant. The author had argued that he would face the death penalty in Malaysia, when deported by Australia. On the basis of the information before it, the Committee found that the author's deportation would not entail a violation of article 6. Two members of the Committee appended a dissenting opinion to the Committee's Views, finding a violation of article 6.

451. Article 6, paragraph 5, prohibits the imposition of the death sentence for crimes committed by persons below 18 years of age. In case No. 733/1997 (Perkins v. Jamaica), the author had claimed that he was below 18 when the crime for which he was sentenced to death was committed. The Committee observed that it was incumbent on the State party to make enquiries if any doubt is raised as to whether the accused in a capital case is a minor or not, but found that the facts before it did not show that the author had been under age at the time of the offence.

(b) The right not to be subjected to torture or to cruel, inhuman or degrading treatment (Covenant, art. 7)

452. Article 7 of the Covenant provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

453. In case No. 577/1994 (Polay Campos v. Peru), Mr. Polay, the leader of the Movimiento Revolucionario Túpac Amaru, had been displayed to the press in a cage. The Committee found that this amounted to degrading treatment within the meaning of article 7 of the Covenant. Mr. Polay was also kept in isolation for a period of a year after his conviction, having been denied visits and correspondence. The Committee concluded that this constituted inhuman treatment within the meaning of article 7. The Committee also found that the uncontested claim that Mr. Polay was kept in solitary confinement in a cell measuring two metres by two, without natural light save for 10 minutes a day, showed a violation of article 7 of the Covenant.

454. In cases Nos. 623/, 624/, 626/, 627/1995 (Domukovsky et al. v. Georgia), all four authors had complained about ill-treatment and torture, and given specific details. The Committee considered:

> "The State party has denied that torture has taken place, and stated that the judicial examination found that the claims were unsubstantiated. It has, however, not indicated how the court has investigated the allegations, nor has it provided copies of the medical reports in this respect. In particular, with regard to the claim made by Mr. Tsiklauri, the State party has failed to address the allegation, simply referring to an investigation which allegedly showed that he had jumped from a moving vehicle and that he had spilled hot tea over himself. No copy of the investigation report has been handed to the Committee, and Mr. Tsiklauri has contested the outcome of the investigation, which according to him was conducted by police officers without a court hearing ever having been held. In the circumstances, the Committee considers that the facts before it show that the authors were subjected to torture and to cruel and inhuman treatment, in violation of articles 7 and 10, paragraph 1, of the Covenant" (annex XI, sect. M, para. 18.6).

455. In case No. 591/1994 (Chung v. Jamaica), the complainant had given a detailed account of how he had been beaten on death row and had written to the Ombudsman. The State party had rejected the allegation, but had not indicated how the claim was investigated. The Committee recalled that a State party is under an obligation to investigate seriously allegations of violations of the Covenant made under the Optional Protocol procedure, and

to forward the outcome of investigations to the Committee, in detail and without undue delay. In the absence of a detailed reply from the State party, the Committee found that a violation of article 7 had occurred.

456. Similar findings were made in cases Nos. 564/1993 (Leslie v. Jamaica), 615/1995 (Young v. Jamaica), 617/1995 (Finn v. Jamaica), 635/1995 (E. Morrisson v. Jamaica), 749/1997 (McTaggart v. Jamaica)and 750/1997 (Daley v. Jamaica). In cases Nos. 619/1995 (Deidrick v. Jamaica), 704/1996 (Shaw v. Jamaica) and 732/1997 (Whyte v. Jamaica), the Committee found violations of article 7 in respect of the conditions of detention.

457. In its jurisprudence regarding claims that a prolonged stay on death row constitutes cruel, inhuman and degrading treatment, the Committee has consistently held that the facts and circumstances of each case must be examined to see whether an issue under article 7 arises and that, in the absence of further compelling circumstances, prolonged judicial proceedings do not per se constitute that kind of treatment. Following its Views in case No. 588/1994 (Errol Johnson v. Jamaica), (adopted at the Committee's fifty-sixth session), the Committee examined once more the implications of holding the length of detention on death row, per se, to be in violation of articles 7 and 10 in cases Nos. 554/1993 (LaVende v. Trinidad and Tobago) and 555/1993 (Bickaroo v. Trinidad and Tobago) and found that no violation of article 7 had occurred because of the length of time on death row. Five members of the Committee appended an individual opinion, dissenting from the Committee's finding. Similar findings were made in cases Nos. 704/1996 (Shaw v. Jamaica), 705/1996 (D. Taylor v. Jamaica) and 750/1997 (Daley v. Jamaica).

458. In case No. 609/1995 (Williams v. Jamaica), the Committee, while referring to its jurisprudence reflected in the preceding paragraph, considered that a violation of article 7 had occurred in the specific circumstances of Mr. Williams' case, since the evidence before the Committee indicated that his mental condition seriously deteriorated while on death row, and that he had received no adequate medical treatment.

459. In case No. 706/1996 (T. v. Australia), the Committee found that the author's deportation from Australia to Malaysia would not violate the State party's obligations under article 7 since the information before the Committee did not indicate that it was the foreseeable and necessary consequence of his deportation that he would be treated in violation of article 7.

(c) Liberty and security of person (Covenant, art. 9)

460. Article 9, paragraph 1, of the Covenant guarantees to everyone the right to liberty and security of person and provides that no one shall be subjected to arbitrary arrest or detention or be deprived of his liberty except on such grounds and in accordance with such procedure as established by law.

461. In cases Nos. 623/1995 (Domukovsky v. Georgia) and 626/1995 (Gelbakhiani v. Georgia), the complainants claimed that they had been illegally arrested by Georgian special forces while residing in the territory of Azerbaijan, a neighbouring country. Although the State party argued that the arrest was pursuant to an agreement with the Azerbaijan authorities, it had provided no specific information about the agreement, whereas the complainants had produced a letter from the Azerbaijan Ministry for Internal Affairs to the effect that it was not aware of any request for their arrest. In the circumstances, the Committee considered that due weight should be given to the allegation and found that the arrest was in violation of article 9, paragraph 1, of the Covenant.

462. Paragraph 2 of article 9 provides that anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. In case No. 624/1995 (Tsiklauri v. Georgia), the applicant claimed that he had been arrested without a warrant, and that he was not shown a warrant for his arrest until after one year of detention. The State party denied the allegation, but did not provide any details as to when the arrest warrant was presented to the applicant. The Committee consequently found a violation of article 9, paragraph 2.

463. A violation of article 9 (2) was also found in case No. 635/1995 (E. Morrisson v. Jamaica).

464. Article 9, paragraph 3, provides, inter alia, that anyone arrested on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power. The Committee found violations of this provision in cases Nos. 585/1994 (Jones v. Jamaica), 635/1995 (E. Morrisson v. Jamaica), 704/1996 (Shaw v. Jamaica) and 750/1997 (Daley v. Jamaica).

465. Article 9, paragraph 3, provides also that anyone detained on a criminal charge shall be entitled to trial within a reasonable time or to release. The Committee found a violation of this provision in case No. 617/1995 (Finn v. Jamaica) (two years and five months of pre-trial detention), 672/1995 (Smart v. Trinidad and Tobago) (over two years of pre-trial detention), 705/1996 (D. Taylor v. Jamaica) (27 months of pre-trial detention),732/1997 (Whyte v. Jamaica) (three years of pre-trial detention) and 733/1997 (Perkins v. Jamaica) (one year and nine months of pre-trial detention).

(d) Treatment during imprisonment (Covenant, art. 10)

466. Article 10, paragraph 1, prescribes that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. The Committee found that the conditions under which prisoners were held amounted to a violation of article 10, paragraph 1, in cases Nos. 564/1993 (Leslie v. Jamaica), 569/1993 (Matthews v. Trinidad and Tobago), 577/1994(Polay Campos v. Peru), 585/1994 (Jones v. Jamaica), 591/1994 (Chung v. Jamaica), 609/1995 (Williams v. Jamaica), 617/1995 (Finn v. Jamaica), 619/1995 (Deidrick v. Jamaica), 623/1995 (Domukovsky v. Georgia), 624/1995 (Tsiklauri v. Georgia), 626/1995 (Gelbakhiani v. Georgia), 627/1995 (Dokvadze v. Georgia), 635/1995 (E. Morrison v. Jamaica), 676/1996 (Yasseen and Thomas v. Guyana), 704/1996 (Shaw v. Jamaica), 705/1996 (D. Taylor v. Jamaica), 732/1997 (Whyte v. Jamaica), 733/1997 (Perkins v. Jamaica), 734/1997 (McLeod v. Jamaica), 749/1997 (McTaggart v. Jamaica) and 750/1997 (Daley v. Jamaica).

(e) Guarantees of a fair trial (Covenant, art. 14)

467. Article 14, paragraph 1, provides for the right to equality before the courts and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law. In case No. 577/1994 (Polay Campos v. Peru), Mr. Polay had been judged by a special tribunal of anonymous judges in a remote prison. The Committee considered:

> "In this situation, the defendants do not know who the judges trying them are and unacceptable impediments are created to their preparation of their defence and communication with their lawyers. Moreover, this system fails to guarantee a cardinal aspect of a fair trial within the meaning of article 14 of the Covenant: that the tribunal must be, and be seen to be, independent and impartial. In a system of trial by "faceless judges", neither the independence nor the impartiality of the judges is guaranteed, since the tribunal, being established ad hoc, may comprise serving members of the armed forces" (annex XI, sect. F, para. 8.8).

The Committee found that article 14, paragraph 1, had been breached.

468. In cases Nos. 704/1996 (Shaw v. Jamaica) and 705/1996 (D. Taylor v. Jamaica), the Committee recalled that the determination of rights in the Constitutional Court must conform with the requirements of a fair hearing in accordance with article 14, paragraph 1. In the cases under examination, the complainants had been sentenced to death and no legal aid was available to them for the filing of a constitutional motion to seek review of irregularities during their trial. In the circumstances, the Committee considered that the requirement of fair hearing should be consistent with the principles in article 14, paragraph 3 (d), and concluded that there had been a violation of article 14. Four members of the Committee appended a dissenting individual opinion to the Committee's Views.

469. In the period covered by the report the Committee examined in cases Nos. 591/1994 (Chung v. Jamaica), 749/1997 (McTaggart v. Jamaica) and 813/1998 (Chadee et al. v. Trinidad and Tobago), the question of whether the trials against the accused were fair or whether they violated the presumption of innocence (guaranteed in paragraph 2 of article 14) because of pre-trial publicity and expressions of hostility from members of the public. In all three cases the Committee found that the circumstances in which the trial was held did not violate article 14, paragraphs 1 and 2, of the Covenant.

470. A violation of the presumption of innocence was found in case No. 577/1994 (Polay Campos v. Peru) (see para. 467 above).

471. Article 14, paragraph 3 (b), provides that, in the determination of any criminal charge against him, everyone is entitled to have adequate time and facilities to prepare his defence and to communicate with counsel of his own choosing. In the period under review, the Committee found violations of this provision in cases Nos. 577/1994 (Polay Campos v. Peru) and 676/1996 (Yasseen and Thomas v. Guyana).

472. Article 14, paragraph 3 (c), gives every accused person the right to be tried without undue delay. Violations of this provision were found in cases Nos. 532/1993 (Thomas v. Jamaica) (31 months from arrest to conviction, plus a further three years before the completion of the appeal proceedings), 564/1993 (Leslie v. Jamaica)(29 months between arrest and trial), 617/1995 (Finn v. Jamaica)(two years and five months between arrest and trial), 635/1995 (E. Morrison v. Jamaica)(two and a half years between charge and trial), 672/1995 (Smart v. Trinidad and Tobago), (two years between arrest and trial), 676/1996 (Yasseen and Thomas v. Guyana) (two years between the decision by the Court of Appeal to order a retrial and the outcome of the retrial), 704/1996 (Shaw v. Jamaica) and 705/1996 (D. Taylor v. Jamaica) (27 months between arrest and trial), 732/1997 (Whyte v. Jamaica)(three years between arrest and trial), 750/1997 (Daley v. Jamaica)(two years and seven months between conviction and hearing of appeal).

473. Paragraph 3 (d) of article 14 provides that everyone is entitled to be tried in his presence and to defend himself in person or through legal assistance, which should be provided free of charge where the interests of justice so require. In case No. 585/1994 (Jones v. Jamaica), counsel for the accused had conceded at the appeal hearing that his client's case had no merit. The Committee considered that under article 14, paragraph 3 (d), the Court should ensure that the conduct of a case by a lawyer is not incompatible with the interests of justice. In a capital case, when counsel for the accused concedes that there is no merit in the appeal, the Court should ascertain whether counsel has consulted with the accused and informed him accordingly. If not, the Court must ensure that the accused is so informed and given an opportunity to engage other counsel. In the circumstances, the Committee found a violation of article 14, paragraph 3 (d) (see annex XI, sect. G, para. 9.5).

474. In cases Nos. 623/, 624/, 626/ and 627/1995 (Domukovsky and others v. Georgia), it was uncontested that the authors were forced to be absent during long periods of the trial, and that Mr. Domukovsky was unrepresented for part of the trial, whereas both Mr. Tsiklauri and Mr. Gelbakhiani were represented by lawyers whose services they had refused, and were not allowed to conduct their own defence or to be represented by lawyers of their choice. The Committee affirmed that

> "at a trial in which the death penalty can be imposed, which was the situation for each author, the right to a defence is inalienable and should be adhered to at every instance and without exception. This entails the right to be tried in one's presence, to be defended by counsel of one's own choosing, and not to be forced to accept ex-officio counsel. In the instant case, the State party has not shown that it took all reasonable measures to ensure the authors' continued presence at the trial, despite their alleged disruptive behaviour. Nor did the State party ensure that each of the authors was at all times defended by a lawyer of his own choosing" (annex XI, sect. M, para. 18.9).

Accordingly, the Committee concluded that the facts disclosed a violation of article 14, paragraph 3(d), in respect of each author.

475. Other violations of article 14, paragraph 3(d), were found in cases Nos. 532/1993 (Thomas v. Jamaica) and 554/1993 (LaVende v. Trinidad and Tobago) (refusal of legal aid for application for leave to appeal to Privy Council), 577/1994 (Polay Campos v. Peru) (trial by anonymous judges), 676/1996 (Yasseen and Thomas v. Guyana) (absence of legal representation during first four days of trial).

476. Paragraph 5 of article 14 provides that everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law. The Committee found a violation of this provision in cases Nos. 623/, 624/, 626/ and 627/1995 (Domukovsky and others v. Georgia), because it appeared from the information submitted that the applicants could not appeal their conviction and sentence, and that the

law provided only for a judicial review, which took place without a hearing and was on matters of law only.

(f) The right to equality before the law and the prohibition of discrimination (article 26)

477. In case No. 651/1995 (Snijders et al. v. the Netherlands) the authors, single persons who suffered from long-term illnesses, complained that they were a victim of discrimination since they had to pay an income-related contribution towards the costs of their stay in a nursing home, and the ceiling for their contribution was the same as that of couples both partners of which were staying in a nursing home. The Committee found that the payment of an income-related contribution as such was not discriminatory, and further considered that, since none of the authors paid the maximum amount of contribution, the authors had failed to show that they were victims of discrimination.

F. Remedies called for under the Committee's Views

478. After the Committee has made a finding on the merits - its "Views" under article 5, paragraph 4, of the Optional Protocol - of a violation of a provision of the Covenant, it proceeds to ask the State party to take appropriate steps to remedy the violation, such as commutation of sentence, release or providing adequate compensation for the violations suffered. When recommending a remedy, the Committee observes that:

> "Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views" (see for instance, the Committee's Views in cases Nos. 532/1993 (Thomas v. Jamaica), 555/1993 (Lavendev. Trinidad and Tobago), 569/1993 (Matthews v. Trinidad and Tobago), 577/1994 (Polay Campos v. Peru), 585/1994 (Jones v. Jamaica), 609/1995 (Williams v. Jamaica), 615/1995 (Young v. Jamaica), 623/1995 (Domukhovsky v. Georgia), 624/1995 (Tsikhlauri v. Georgia), 626/1995 (Gelbakhiani v. Georgia), 627/1995 (Dokvadze v. Georgia), 672/1995 (Smart v. Trinidad and Tobago), 676/1996 (Yasseen and Thomas v. Guyana).

479. The compliance by States with these requests for information is monitored by the Committee through its follow-up procedure, as described in chapter VIII of the present report.

Notes

[1] At its 1625th meeting, on 24 October 1997 (61st session), the Committee decided to discontinue its consideration of communication 703/1996 (Rockliffe Ross v. Guyana). The communication, dated 2 June 1996 and received by the Secretariat on 3 June 1996, concerned the execution of the author, scheduled to take place on 4 June 1996 at 8 a.m. local time (2 p.m. Geneva time). Despite a request of a stay of execution authorized by the Chairman of the Committee and communicated through all available channels to the Guyanan authorities, including a telefax to the Presidency, a telephone call to the superintendent of the State Prison in Georgetown where the author was being held and the dictation of the text of the request to the assistant of the Superintendent, the author was hanged on the morning of 4 June 1996. In a reply to a Chairman's letter authorized by the Committee and expressing dismay at the author's execution, the State party indicated that the Committee's request for a stay of execution had not reached the attention of competent authorities in time to stop the execution. As the original communication to the Committee was insufficient for the purpose of proceeding with the case and as the lawyer of the author did not reply to the Committee's request for information on whether he intended to pursue with the communication, the Committee decided to discontinue its consideration of the case and to make this decision public in its next annual report.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

480. From its seventh session, in 1979, to its sixty-third, in July 1997, the Human Rights Committee has adopted 293 Views on communications received and considered under the Optional Protocol. The Committee has found violations in 223 of them.

481. During its thirty-ninth session, in July 1990, the Committee established a procedure whereby it can monitor the follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and it created the mandate of a Special Rapporteur for the Follow-Up on Views.[1] At the Committee's fifty-ninth session, Mr. Prafullachandra Natwarlal Bhagwati assumed the duties of Special Rapporteur for the Follow-Up on Views.

482. The mandate of the Special Rapporteur is spelled out in rule 95 of the Committee's rules of procedure.

483. The Special Rapporteur began to request follow-up information from States parties in 1991. Follow-up information has systematically been requested in respect of all Views with a finding of a violation of the Covenant. At the beginning of the Committee's sixty-third session, follow-up information had been received in respect of 133 Views. No information had been received in respect of 70 Views. In 13 cases, the deadline for receipt of follow-up information had not yet expired. In many instances, the Secretariat has also received information from authors to the effect that the Committee's Views had not been implemented. Conversely, in some rare instances, the author of a communication has informed the Committee that the State party had given effect to the Committee's recommendations, although the State party had not itself provided that information.

484. Attempts to categorize follow-up replies are necessarily imprecise. By the beginning of the sixty-third session, roughly 30 per cent of the replies received could be considered satisfactory in that they display the State party's willingness to implement the Committee's Views or to offer the applicant an appropriate remedy. Many replies simply indicate that the victim has failed to file a claim for compensation within statutory deadlines and that, therefore, no compensation can be paid to the victim. Other replies cannot be considered satisfactory in that they either do not address the Committee's recommendations at all or merely relate to one aspect of them.

485. The remainder of the replies either explicitly challenge the Committee's findings, on either factual or legal grounds, constitute much belated submissions on the merits of the case, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

486. The Committee's previous report (A/52/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1997. The list that follows shows the additional cases in respect of which follow-up information has been requested from States (Views in which the deadline for receipt of follow-up information had not yet expired have not been included). It also indicates those cases in which replies are outstanding. In many of these cases there has been no change since the previous report. This is because the resources available for the Committee's work were considerably reduced in the current year, preventing it from undertaking a comprehensive systematic follow-up programme.

Argentina: One decision finding violations: see 1996 Report (A/51/40), para. 455.

Australia: Two Views finding violations: 488/1992 - Toonen (1994 Report (A/49/40)); for follow-up reply, see 1996 Report (A/51/40), para. 456; the laws in question have now been repealed; 560/1993 - A (1997 Report (A/52/40)); follow-up reply, dated 16 December 1997 (see para. 491 below).

Austria: One decision finding violations: see 1997 Report (A/52/40), para. 524.

Bolivia: Two Views finding violations: see 1997 Report (A/52/40), para. 524.

Cameroon:	One decision finding violations: 458/1991 - Mukong (1994 Report (A/49/40)); State party follow-up reply remains outstanding; see 1997 Report (A/52/40), paras. 524 and 532.
Canada:	Six Views finding violations: 24/1978 - Lovelace (Selected decisions, vol. 1);[2] for State party follow-up reply, see Selected decisions, vol. 2, annex I);[3] 27/1978 - Pinkney (Selected decisions, vol. 1); no State party follow-up reply received; 167/1984 - Ominayak (1990 Report (A/45/40)); State party follow-up reply, dated 25 November 1991, unpublished; 359/1989 and 385/1989 - Davidson and McIntyre (1993 Report (A/48/40)); State party follow-up reply, dated 2 December 1993, unpublished; 469/1991 - Ng (1994 Report (A/49/40)); State party follow-up reply, dated 3 October 1994, unpublished.
Central African Republic:	One decision finding violations: see 1996 Report (A/51/40), para. 457.
Colombia:	Nine Views finding violations: for the first eight cases, see 1996 Report (A/51/40), paras.439-441, and 1997 Report (A/52/40), paras. 533-535; 612/1995-Arhuacos (1997 Report); no follow-up reply.
Czech Republic:	Two Views finding violations: 516/1992 - Simunek et al. (1995 Report (A/50/40)); 586/1994 - Adam (1996 Report (A/51/40)). For State party's follow-up replies, see 1996 Report, para. 458. One author (in case No. 516/1992) has confirmed that the Committee's recommendations were implemented, the others complain that their property was not restored to them or that they were not compensated. Follow-up consultations were held during the sixty-first session (see para. 492 below).
Democratic Republic of the Congo (formerly Zaire):	10 Views finding violations: 16/1977 -Mbenque, 90/1981 - Luyeye, 124/1982 - Muteba, 138/1983 - Mpandanjila et al., 157/1983 - Mpaka Nsusu; and 194/1985 - Miango (Selected decisions, vol. 2);[3] 241/1987 and 242/1987 - Birindwa and Tshisekedi (1990 Report (A/45/40)); 366/1989 - Kanana (1994 Report (A/49/40)); 542/1993 - Tshishimbi (1996 Report (A/51/40)). No State party follow-up reply has been received in respect of any of the above cases, in spite of two reminders addressed to the State party.
Dominican Republic:	Three Views finding violations: 188/1984 - Portorreal (Selected decisions, vol. 2);[3] for State party's follow-up reply, see 1990 Report (A/45/40), vol. II, annex XII; 193/1985 - Giry (1990 Report); 449/1991 - Mójica (1994 Report (A/49/40)); State party's follow-up reply in the latter two cases has been received but is incomplete in respect of case No. 193/1985. Follow-up consultations with the Permanent Mission of the Dominican Republic were conducted during the fifty-seventh and fifty-ninth sessions (see 1997 Report (A/52/40), para. 538).
Ecuador:	Five Views finding violations: 238/1987 - Bolanos (1989 Report (A/44/40)); for State party's follow-up reply, see 1990 Report (A/45/40), vol. II, annex XII, B; 277/1988 - Teran Jijon (1992 Report, A/47/40); follow-up reply, dated 11 June 1992, unpublished; 319/1988 - Canon Garcia (1992 Report); no follow-up reply received); 480/1991 - Fuenzalida (1996 Report (A/51/40)); 481/1991 - Ortega (1996 Report); State party's follow-up reply in the latter two cases, dated 9 January 1998 (see para. 497 below). Follow-up consultations with the Permanent Mission of Ecuador were conducted during the sixty-first session (see para. 493 below).

Equatorial Guinea:	Two Views finding violations: 414/1990 - Primo Essono and 468/1991 - Oló Bahamonde (1994 Report (A/49/40)). State party's follow-up reply remains outstanding in both cases, in spite of follow-up consultations with the Permanent Mission of Equatorial Guinea during the fifty-sixth and fifty-ninth sessions (see 1996 Report (A/51/40), paras 442-444, and 1997 Report (A/52/40), para. 539).
Finland:	Four Views finding violations: 265/1987 - Vuolanne (1989 Report (A/44/40)); for State party's follow-up reply, see 1989 Report, para. 657 and annex XII; 291/1988 - Torres (1990 Report (A/45/40)); for State party's follow-up reply, see 1990 Report, vol. II, annex XII; 387/1989 - Karttunen (1993 Report (A/48/40)); no follow-up reply received in respect of this case; 412/1990 - Kivenmaa (1994 Report (A/49/40)); State party's preliminary follow-up reply, dated 13 September 1994, unpublished.
France:	Two Views finding violations: 196/1985 - Gueye et al. (1989 Report (A/44/40)); for State party's follow-up reply, see 1996 Report (A/51/40), para. 459; 549/1993-Hopu (1997 Report (A/52/40)); State party's follow-up reply, dated 29 January 1998 (see para. 495 below).
Hungary:	Two Views finding violations: for State party's follow-up reply, see 1997 Report (A/52/40), para. 540.
Jamaica:	57 Views finding violations: 9 detailed follow-up replies received, all indicating that State party will not implement the Committee's recommendations; 26 follow-up replies, or "standardized" replies, indicating merely that author's death sentence has been commuted on the basis of reclassification of the offence or as a result of the Privy Council judgement of 2 November 1993 in the Pratt and Morgan case. No follow-up replies in 22 cases. Follow-up consultations with the State party's representatives to the United Nations were conducted during the fifty-third, fifty-fifth, fifty-sixth and sixtieth sessions. Prior to the Committee's fifty-fourth session, the Special Rapporteur for the Follow-up on Views conducted a follow-up fact-finding mission to Jamaica (see 1995 Report (A/50/40), paras. 557-562).
Libyan Arab Jamahiriya:	One decision finding violations: 440/1990 - El Megreisi (1994 Report (A/49/40)); State party's follow-up reply remains outstanding. Author has informed the Committee that his brother was released in March 1995. Compensation remains outstanding.
Madagascar:	Four Views finding violations: 49/1979 - Marais, 115/1982 - Wight, 132/1982 - Monja Jaona and 155/1983 - Eric Hammel (in Selected decisions, vol. 2).[3] State party's follow-up reply remains outstanding in all four cases; the authors of the two first cases informed the Committee that they were released from detention. Follow-up consultations with the Permanent Mission of Madagascar were held during the fifty-ninth session (see 1997 Report (A/52/40), para. 543).
Mauritius:	One decision finding violations: 35/1978 - Aumeeruddy-Cziffra (Selected decisions, vol. 1);[2] for State party's follow-up reply, see Selected decisions, vol. 2,[3] p. 237).
Netherlands:	Four Views finding violations: 172/1984 - Broeks (1987 Report (A/42/40)); State party's follow-up reply, dated 23 February 1995, unpublished; 182/1984 - Zwaan de Vries (1987 Report); State party's follow-up reply was not published; 305/1988 - van Alphen (1990 Report (A/45/40)); for State party's follow-up

reply, dated 15 May 1991, see 1991 Report (A/46/40), paras. 707 and 708; 453/1991 - Coeriel and Aurick (1995 Report (A/50/40)); State party's follow-up reply, dated 28 March 1995, unpublished.

Nicaragua: One decision finding violations: 328/1988 - Zelaya Blanco (1994 Report (A/49/40)); State party follow-up reply remains outstanding, in spite of reminder addressed to State party in June 1995, and follow-up consultations with the Permanent Mission of Nicaragua during the fifty-ninth session (see 1997 Report (A/52/40), paras. 524 and 544).

Panama: Two Views finding violations: 289/1988 - Dieter Wolf (1992 Report (A/47/40)); 473/1991 - Barroso (1995 Report (A/50/40)). State party's follow-up reply, dated 22 September 1997 (see paras. 496 and 497 below).

Peru: Six Views finding violations: for four cases, see 1997 Report (A/52/40), paras. 524, 545-546; 540/1993 - Celis Laureano (1996 Report (A/51/40)); State party's follow-up reply remains outstanding; 577/1994 (Polay) (annex XI, section F); State party's follow-up replies, dated 14 April and 2 June 1998 (see para. 501 below).

Republic of Korea: One decision finding violations: 518/1992 - Sohn (1995 Report A/50/40); State party's follow-up reply remains outstanding see 1996 Report (A/51/40), paras. 449 and 450; 1997 Report A/52/40), paras. 547 and 548).

Senegal: One decision finding violations: 386/1989 - Famara Koné (1995 Report (A/50/40)); for State party's follow-up reply, see 1996 Report (A/51/40), para. 461. By letter of 29 April 1997, author confirms that compensation was offered to him but rejects it as inadequate. At the sixty-first session, the State party informed the Committee that the compensation offered had been increased, see summary record (CCPR/C/SR.1619) of 21 October 1997.

Spain: Two Views finding violations: 493/1992 - G. J. Griffin (1995 Report (A/50/40)); State party's follow-up reply, dated 30 June 1995, unpublished, in fact challenges Committee's findings; 526/1993 (Hill) (1997 Report (A/52/40)); State party's follow-up reply, dated 9 October 1997 (see para. 499 below).

Suriname: Eight Views with findings of violations: 146/1983 and 148-154/1983 - Baboeram et al. (see Selected decisions, vol. 2);[3] consultations during the fifty-ninth session (see 1996 Report (A/51/40) and 1997 Report (A/52/40)); State party's follow-up reply, dated 2 September 1997 (see paras. 500 and 501 below).

Togo: Two Views with findings of violations: 422-424/1990 - Aduayom et al. and 505/1992 - K. Ackla (1996 Report (A/51/40)). State party's follow-up replies on both Views remain outstanding.

Trinidad and Tobago: Eight Views finding violations: 232/1987 and 512/1992 - Daniel Pinto (1990 Report (A/45/40) and 1996 Report (A/51/40)); 362/1989 - Soogrim (1993 Report (A/48/40)); 447/1991 - Leroy Shalto (1995 Report (A/50/40)); 434/1990 - Lal Seerattan and 523/1992 - Clyde Neptune (1996 Report (A/51/40)); 533/1993 (Elahie) and 555/1003 (LaVende) (see annex XI, section B). State party follow-up replies received in respect of the cases of Pinto, Shalto (unpublished), Neptune and Seerattan. Follow-up replies on the cases of Soogrim, Elahie and LaVende are outstanding. Follow-up consultations were conducted during the sixty-first session (see paras. 505-509 below; see, also, 1996

	Report (A/51/40), paras. 429, 452 and 453, 1997 Report (A/52/40), paras. 550, 551 and 552).
Uruguay:	45 Views finding violations: 43 follow-up replies received, dated 17 October 1991, unpublished. Follow-up replies on two Views remain outstanding: 159/1983 - Cariboni (Selected decisions, vol. 2);[1] 322/1988 - Rodriguez (1994 Report (A/49/40)); see also 1996 Report (A/51/40), para. 454.
Venezuela:	One decision finding violations: 156/1983 - Solorzano (Selected decisions, vol. 2);[3] State party's follow-up reply, dated 21 October 1991, unpublished.
Zambia:	Three Views finding violations: 314/1988 - Bwalya and 326/1988 - Kalenga (1994 Report (A/49/40), 390/1990 - Lubuto (1996 Report (A/51/40)); State party's follow-up reply, dated 3 April 1995, unpublished, received in respect of the first two decisions; follow-up reply in respect of case No. 390/1990 remains outstanding.

487. For further information on the status of all the Views in which follow-up information remains outstanding or in respect of which follow-up consultations have been or will be scheduled, reference is made to the follow-up progress report prepared for the sixty-second session of the Committee (CCPR/C/62/R.1, dated 28 February 1998). An overview of the Committee's past experience with the follow-up procedure can be found in the Committee's 1996 Report (A/51/40, paras. 430-433), and its 1997 Report (A/52/40, paras. 518-557).

Overview of follow-up replies received and of the Special Rapporteur's follow-up consultations during the reporting period

488. The Special Rapporteur for the Follow-Up on Views held consultations with the representatives of three States parties to the Covenant and the Optional Protocol during the reporting period. He met with representatives of the Governments of the Czech Republic and Ecuador during the sixty-first session. Moreover, the Special Rapporteur, together with the Chairperson of the Committee, Mrs. Christine Chanet, and the Special Rapporteur for New Communications, Mr. Fausto Pocar, met with representatives of Trinidad and Tobago during the sixty-first session.

489. The Committee expresses its appreciation for the availability of States party delegations for follow-up consultations. It welcomes the follow-up replies that have been received during the reporting period and expresses its appreciation for all the measures taken or envisaged to provide victims of violations of the Covenant with an effective remedy. It encourages all States parties which have addressed preliminary follow-up replies to the Special Rapporteur to conclude their investigations in as expeditious a manner as possible and to inform the Special Rapporteur of their results.

490. The results of the Special Rapporteur's consultations are summarized below, together with the overview of follow-up replies received during the period under review.

491. Australia. By submission of 16 December 1997, Australia submitted follow-up information in respect of case No. 560/1993 (A. v. Australia), adopted on 3 April 1997. The State party indicates that it shares the Committee's concerns that prolonged or indefinite detention is undesirable, but it does not accept the Committee's Views that A's detention was arbitrary or that the Government had not provided sufficient justification. As a consequence, it rejects the Committee's recommendation to pay compensation. Moreover, the State party takes issue with the Committee's interpretation of article 9(4) and contests that the term "lawfulness" means "lawful at international law" or "not arbitrary"; according to the State party, "lawfulness" only refers to domestic law.

492. Czech Republic. On 27 October 1997, the Special Rapporteur met with the Permanent Representative of the Czech Republic to the United Nations Office at Geneva in respect of the Committee's Views on cases 516/1992 (Simunek et al.) and 566/1994 (Adam). The State party's representative indicated that, although the legal basis for the cases was identical, the factual details in each case were different, and that as a consequence cases were pending before different courts. He explained that in cases relating to the restitution of

property, the courts proceeded slowly because of the sheer number of complaints. He assured the Rapporteur that the cases were not being delayed deliberately but were caused by the difficulties of establishing title to property, particularly with regard to the case of Mr. Adam. In this connection, the representative stated that Mr. Adam had failed to file a claim for restitution in the court. With regard to the requirement of citizenship, which was found by the Committee to be discriminatory, the Constitutional Court was not expected to address this issue in the near future, since no formal claim to have its validity tested had been filed. In conclusion, the representative stated that the State party did not disagree with the Committee's findings, but pointed out that Mrs. Simunek and Mr. Adam would be required to pursue their claim for compensation and restitution before the Czech courts, within the statutory deadlines.

493. Ecuador. On 30 October 1997, the Special Rapporteur met with the Permanent Representative of Ecuador to the United Nations Office at Geneva to discuss the State party's failure to implement the Committee's recommendations formulated in its Views on case No. 480/1991 (Fuenzalida), and to request a reply in respect of the Committee's Views in case No. 481/1991 (Ortega). With regard to the compensation which was recommended by the Committee, the Special Rapporteur explained that the principle of compensation could not be challenged by the State party, but that it was free to determine the level of compensation. If no legal basis existed for compensation, the State party should make ex gratia payments. The representative promised to convey the Rapporteur's concerns to his Government.

494. In a submission of 9 January 1998, the State party provides information in respect of the two cases, which reads as a belated submission on the merits. No information is provided about the measures taken, if any, by the State party to implement the Committee's recommendations.

495. France. By submission of 29 January 1998, France submitted follow-up information in relation to the Committee's Views in case No. 549/1993 (Hopu). The State party provides information about recent legal measures taken to protect cultural sites and provides examples of their successful application. In respect of the site at issue in the Hopu case, the State party submits that an archaeological report of July 1996 determined the site with precision, and that, after a scientific study, it was decided to modify the original building plan to protect the graves next to the sea. A retaining wall has been built to preserve them.

496. Panama. By submission of 22 September 1997, Panama provided information in respect of the Committee's Views in cases Nos. 289/1988 (Wolf) and 473/1991 (Del Cid). With regard to the case of Mr. Wolf, the State party explains the factual situation and recalls that at the time the penal process was entirely a written procedure, but that in 1990 the law had been amended in order to reincorporate oral proceedings, public hearings and the guarantee of public defence for those who have no sufficient means to pay for it. In relation to the recommendation of the Committee to pay compensation, the State party notes that the law requires the fixation of the amount and the specification of the damages caused. It is not clear from the State party's observations whether Mr. Wolf would be required to start a court action in order to obtain the said compensation.

497. With regard to the case of Mr. Del Cid, the State party states that it accepts the legal consequences of having ratified the Covenant and the Optional Protocol thereto, but recalls that the criminal justice system suffers from financial pressures caused by the State's foreign debt, which hinders the establishment of more tribunals, whereas the increase of criminality leads to overpopulation of prisons. According to the State party, taking into account the actual situation, the three years it took to bring Mr. Del Cid's case to trial are thus justified. The State party notes that Mr. Del Cid was assisted by specialist lawyers during his trial, and that these lawyers should initiate actions to claim the compensation recommended by the Committee. In this context, the State party refers to articles 1033 and 1034 of the Judicial Code, and to article 178 of Law No. 65 of 24 December 1996, concerning court orders for compensation.

498. Peru. In submissions, dated 14 April and 2 June 1998, Peru provided information in relation to the Committee's Views in case No. 577/1994 (Polay Campos). The State party contests the Committee's findings of violations in Mr. Polay Campos' case. In respect of the Committee's recommendation that Mr. Polay Campos be retried in compliance with the requirements of fair trial set forth in the Covenant, the State party submits that a sentence can be reviewed by an extraordinary appeal measure, the recourse of revision

foreseen in article 361 of the Code of Criminal Procedure. An application for revision has to be filed by the accused, or by his relatives, with the Supreme Court together with the documents justifying the revision. The Supreme Court has the power to annul the imposed sentence and order a retrial.

499. Spain. By submission of 9 October 1997, Spain provided information in relation to the Committee's Views in case No. 526/1993 (Hill). The State party clarifies that the applicants have the right to initiate an effective remedy, either through an administrative, judicial, constitutional (amparo) or even international (under the European Convention) recourse. In this connection, the State party refers to articles 24(1), 106(2) and 121 of the Constitution concerning compensation for damages caused by violation of rights of individuals.

500. Suriname. By note of 27 August 1997, Suriname reiterates its determination to observe fundamental human rights, which are best served by an integrated set of measures that would take into account all aspects of these rights. The State party acknowledges that appropriate compensation should be given to the families of victims of human rights violations. At present, the State party is engaged in seeking urgent solutions to the dire social and economic circumstances prevailing in the country, and it envisages nationwide discussions on all aspects of human rights, both political and economic. The State party will present the result of these discussions to the Human Rights Committee as soon as they are available.

501. No mention is made in the reply about any concrete measures taken in the light of the Committee's Views on communications Nos. 146 and 148-154/1983 (Baboeram et al.).

502. Trinidad and Tobago. On 21 October 1997, the Chairperson, Mrs. Chanet, the Special Rapporteur for Follow-Up of Views, Mr. Bhagwati, and the Special Rapporteur for New Communications, Mr. Pocar, met with the Permanent Representative of Trinidad and Tobago to the United Nations Office at Geneva to discuss the follow-up to Views. The representative indicated that a recent reply concerning communication No. 447/1991 (Shalto), informing the Committee that the applicant had been released following a presidential pardon, had apparently not been received by the Secretariat. A copy of this reply was forwarded. At the end of the meeting, it was agreed that a formal request for a mission to Trinidad and Tobago by the Committee would be directed to the State party's representatives.

503. In a submission, dated 15 October 1997, the State party provided information in respect of case No. 512/1992 (Pinto). It informed the Committee that the Advisory Committee on the Power of Pardon had not recommended Mr. Pinto's early release since, according to a report submitted by a Welfare Officer, his attitude appeared to militate against his release from prison. The Commissioner of Prisons has recommended that Mr. Pinto's case be reviewed again on 3 November 2000.

504. By submission of 27 November 1997, the State party provided information in respect of case No. 434/1992 (Seerattan). It explains that the case of Mr. Seerattan was referred to the Minister of National Security, who is responsible for advising the President on the power of pardon. The Minister consulted with the Advisory Committee on the Power of Pardon, which had before it, inter alia, the Human Rights Committee's recommendation, a psychological assessment and reports from the Commissioner of Prisons and the Chief Probation Officer. After due consideration, the Minister was unable to recommend to the President that a remission of sentence be granted at this time. In accordance with the prison rules, Mr. Seerattan's life sentence will be reviewed again in January 1998.

505. By submission of 14 January 1998, the State party provided information concerning the follow-up to the Committee's Views in respect of case No. 523/1992 (Neptune). The State party explains that following the Committee's recommendation of Mr. Neptune's early release, his case has been referred to the Minister of National Security. The Minister will consult with the Advisory Committee on the Power of Pardon which will have before it, inter alia, the Human Rights Committee's recommendation, a psychological assessment of Mr. Neptune and reports from the Commissioner of Prisons and the Chief Probation Officer. Regarding the improvement of the circumstances of Mr. Neptune's detention, the State party is of the view that the description given by Mr. Neptune of his detention was exaggerated. According to the State party, the Commissioner of Prisons has investigated the specific complaints noted by the Committee and is satisfied that appropriate standards are being maintained

506. With regard to steps taken to ensure that violations of articles 9(3), 10(1) and 14(3)(c) and (5) do not occur in the future, the State party assures the Committee that it will introduce legislative and procedural reforms where necessary to ensure compliance with its obligations under the Covenant. In this connection, the State party explains that it has allocated additional resources to the judiciary to help remove pre-trial delay. Twelve new posts have been created in the magistracy and a further four puisne judges have been appointed to the High Court. A case management unit has been established to ensure that strict time frames are met in cases where bail is not granted and the accused is remanded in custody to await trial. Legislative reforms have also been introduced and further legislation is being contemplated. With regard to the delay in hearing appeals, the State party explains that following the Privy Council's judgement in the Pratt and Morgan case, three further justices of appeal have been appointed. A computer-aided transcription unit has been established to facilitate the speedy preparation of the court record so that appeals may be heard expeditiously. As a result of these measures, the backlog has been cleared. In respect of the conditions of detention, the State party explains that steps have been taken to alleviate prison overcrowding by granting remission of sentence and by reviewing and discharging prisoners serving long sentences. A new maximum security prison has been constructed with an estimated accommodation of 2,100 inmates.

507. The Committee decided that in view of the replies received, further follow-up consultations are required in respect of Australia, Panama, Spain, Suriname and Trinidad and Tobago.

Publicity of follow-up activities

508. During the fiftieth session, in March 1994, the Committee formally adopted a number of decisions concerning the effectiveness of and publicity for follow-up procedure. Those decisions, which are set out in detail in paragraphs 435-437 of the Committee's 1996 Report (A/51/40), provide for publicity to be given to follow-up activities and to the cooperation or non-cooperation of States parties with the Special Rapporteur.

Concern over the follow-up mandate

509. The Committee reconfirms that it will keep the functioning of the follow-up procedure under regular review.

510. The Committee again expresses its regret that its recommendations, formulated in its 1995, 1996 and 1997 Reports, to the effect that at least one follow-up mission per year be budgeted by the Office of the United Nations High Commissioner for Human Rights, have still not been implemented. Similarly, the Committee considers that staff resources to service the follow-up mandate remain inadequate, despite the Committee's repeated requests, and that this prevents the proper and timely conduct of follow-up activities, including follow-up missions. In this context, the Committee expresses serious concern that, because of the lack of staff, no follow-up consultations could be organized during its sixty-second session or at its sixty-third session. It is for this reason that the Committee is unable to include in the present report a complete list of States which have failed to cooperate under the follow-up procedure. States listed in the previous year's report for which replies are still outstanding are: Cameroon, Democratic Republic of the Congo, Equatorial Guinea, Jamaica, Libyan Arab Jamahiriya, Madagascar, Nicaragua, Togo, Uruguay and Zambia.

Notes

[1] The mandate is spelled out in the Committee's 1990 Report to the General Assembly. See Official Records of the General Assembly, Forty-fifth session, Supplement No. 40 (A/45/40), annex XI.

[2] International Covenant on Civil and Political Rights. Human Rights Committee. Selected decisions under the Optional Protocol (CCPR/C/OP/1) (United Nations publication, Sales No. 84.XIV.2), vol. 1.

[3] Ibid. (CCPR/C/OP/2) (United Nations publication, Sales No. 89.XIV.1), vol. 2.

ANNEX I

States parties to the International Covenant on Civil and Political Rights and to the Optional Protocols and States which have made the declaration under article 41 of the Covenant as at 31 July 1998

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
A. States parties to the International Covenant on Civil and Political Rights (142)		
Afghanistan	24 January 1983[a]	24 April 1983
Albania	4 October 1991[a]	4 January 1992
Algeria	12 September 1989	12 December 1989
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia[b]	23 June 1993	23 September 1993
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan[b]	13 August 1992[a]	13 November 1992
Barbados	5 January 1973[a]	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Belize	10 June 1996[a]	10 September 1996
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 September 1993[c]	6 March 1992
Brazil	24 January 1992[a]	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burundi	9 May 1990[a]	9 August 1990
Cambodia	26 May 1992[a]	26 August 1992
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	6 August 1993[a]	6 November 1993
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995[a]	9 September 1995
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Côte d'Ivoire	26 March 1992[a]	26 June 1992
Croatia	12 October 1992[c]	8 October 1991
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993[c]	1 January 1993
Democratic People's Republic of Korea	14 September 1981[a]	14 December 1981
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Dominica	17 June 1993[a]	17 September 1993
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987[a]	25 December 1987
Estonia[b]	21 October 1991[a]	21 January 1992
Ethiopia	11 June 1993[a]	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980[a]	4 February 1981
Gabon	21 January 1983[a]	21 April 1983
Gambia	22 March 1979[a]	22 June 1979
Georgia[b]	3 May 1994[a]	3 August 1994
Germany	17 December 1973	23 March 1976
Greece	5 May 1997[a]	5 August 1997
Grenada	6 September 1991[a]	6 December 1991
Guatemala	6 May 1992[a]	5 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991[a]	6 May 1991
Honduras	25 August 1997	25 November 1997
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979[a]	10 July 1979
Iran, Islamic Republic of	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991[a]	3 January 1992
Italy	15 September 1978	15 December 1978

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kazakhstan[d]		
Kenya	1 May 1972[a]	23 March 1976
Kuwait	21 May 1996[a]	21 August 1996
Kyrgyzstan[b]	7 October 1994[a]	7 January 1995
Latvia[b]	14 April 1992[a]	14 July 1992
Lebanon	3 November 1972[a]	23 March 1976
Lesotho	9 September 1992[a]	9 December 1992
Libyan Arab Jamahiriya	15 May 1970[a]	23 March 1976
Lithuania[b]	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993[a]	22 March 1994
Mali	16 July 1974[a]	23 March 1976
Malta	13 September 1990[a]	13 December 1990
Mauritius	12 December 1973[a]	23 March 1976
Mexico	23 March 1981[a]	23 June 1981
Monaco	28 August 1997	28 November 1997
Mongolia	18 November 1974	23 March 1976
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Nigeria	29 July 1993[a]	29 October 1993
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1997
Paraguay	10 June 1992[a]	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990[a]	10 July 1990
Republic of Moldova[b]	26 January 1993[a]	26 April 1993
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975[a]	23 March 1976
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	6 July 1992[c]	25 June 1991
Somalia	24 January 1990[a]	24 April 1990
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980[a]	11 September 1980
Sudan	18 March 1986[a]	18 June 1986
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992[a]	18 September 1992
Syrian Arab Republic	21 April 1969[a]	23 March 1976
Tajikistan[d]		
Thailand	29 October 1996[a]	29 January 1997
The former Yugoslav Republic of Macedonia[b]	18 January 1994[c]	17 September 1991
Togo	24 May 1984[a]	24 August 1984
Trinidad and Tobago	21 December 1978[a]	21 March 1979
Tunisia	18 March 1969	23 March 1976
Turkmenistan[b]	1 May 1997[a]	1 August 1997
Uganda	21 June 1995[a]	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976[a]	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Uzbekistan[b]	28 September 1995	28 December 1995
Venezuela	10 May 1978	10 August 1978
Viet Nam	24 September 1982[a]	24 December 1982
Yemen	9 February 1987[a]	9 May 1987
Yugoslavia	2 June 1971	23 March 1976
Zambia	10 April 1984[a]	10 July 1984
Zimbabwe	13 May 1991[a]	13 August 1991

In addition to the States parties listed above, the Covenant continues to apply in Hong Kong, Special Administrative Region of China.[e]

B. States parties to the Optional Protocol (92)

Algeria	12 September 1989[a]	12 December 1990
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986[a]	8 November 1986
Armenia	23 June 1993	23 September 1993
Australia	25 September 1991[a]	25 December 1991
Austria	10 December 1987	10 March 1988
Barbados	5 January 1973[a]	23 March 1976
Belarus	30 September 1992[a]	30 December 1992
Belgium	17 May 1994[a]	17 August 1994
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Bulgaria	26 March 1992[a]	26 June 1992
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995	9 September 1995
Chile	28 May 1992[a]	28 August 1992
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	5 March 1997	5 June 1997
Croatia	12 October 1995	12 January 1996
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993[c]	1 January 1993

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
El Salvador	6 June 1995	6 September 1995
Equatorial Guinea	25 September 1987[a]	25 December 1987
Estonia	21 October 1991[a]	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984[a]	17 May 1984
Gambia	9 June 1988[a]	9 September 1988
Georgia	3 May 1994[a]	3 August 1994
Germany	25 August 1993	25 November 1993
Greece	5 May 1997[a]	5 August 1997
Guinea	17 June 1993	17 September 1993
Guyana	10 May 1993[a]	10 August 1993
Hungary	7 September 1988[a]	7 December 1988
Iceland	22 August 1979[a]	22 November 1979
Ireland	8 December 1989	8 March 1990
Italy	15 September 1978	15 December 1978
Jamaica[f]	3 October 1975	23 March 1976
Kyrgyzstan	7 October 1994[a]	7 January 1995
Latvia	22 June 1994[a]	22 September 1994
Libyan Arab Jamahiriya	16 May 1989[a]	16 August 1989
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983[a]	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	11 June 1996	11 September 1996
Malta	13 September 1990[a]	13 December 1990
Mauritius	12 December 1973[a]	23 March 1976
Mongolia	16 April 1991[a]	16 July 1991
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991[a]	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989[a]	26 August 1989
Nicaragua	12 March 1980[a]	12 June 1980

Best copy available

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Niger	7 March 1986[a]	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995[a]	10 April 1995
Peru	3 October 1980	3 January 1981
Philippines	22 August 1989[a]	22 November 1989
Poland	7 November 1991[a]	7 February 1992
Portugal	3 May 1983	3 August 1983
Republic of Korea	10 April 1990[a]	10 July 1990
Romania	20 July 1993[a]	20 October 1993
Russian Federation	1 October 1991[a]	1 January 1992
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993	1 January 1993
Slovenia	16 July 1993[a]	16 October 1993
Somalia	24 January 1990[a]	24 April 1990
Spain	25 January 1985[a]	25 April 1985
Sri Lanka[a]	3 October 1997	3 January 1998
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	23 March 1976
The former Yugoslav Republic of Macedonia	12 December 1994[a]	12 March 1995
Togo	30 March 1988[a]	30 June 1988
Trinidad and Tobago[g]	14 November 1980[a]	14 February 1981
Turkmenistan[b]	1 May 1997[a]	1 August 1997
Uganda	14 November 1995	14 February 1996
Ukraine	25 July 1991[a]	25 October 1991
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	28 December 1995
Venezuela	10 May 1978	10 August 1978
Zambia	10 April 1984[a]	10 July 1984

C. States parties to the Second Optional Protocol aiming at the abolition of the death penalty (33)

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Australia	2 October 1990[a]	11 July 1991
Austria	2 March 1993	2 June 1993
Colombia	5 August 1997	5 November 1997
Costa Rica	5 June 1998	5 September 1998
Croatia	12 October 1995	12 January 1996
Denmark	24 February 1994	24 May 1994
Ecuador	23 February 1993[a]	23 May 1993
Finland	4 April 1991	11 July 1991
Germany	18 August 1992	18 November 1992
Greece	5 May 1997[a]	5 August 1997
Hungary	24 February 1994[a]	24 May 1994
Iceland	2 April 1991	11 July 1991
Ireland	18 June 1993[a]	18 September 1993
Italy	14 February 1995	14 May 1995
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994	29 March 1995
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	4 March 1998	4 June 1998
Netherlands	26 March 1991	11 July 1991
New Zealand	22 February 1990	11 July 1991
Norway	5 September 1991	5 December 1991
Panama	21 January 1993[a]	21 April 1993
Portugal	17 October 1990	11 July 1991
Romania	27 February 1991	11 July 1991
Seychelles	15 December 1994[a]	15 March 1995
Slovenia	10 March 1994	10 June 1994
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994[a]	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995[a]	26 April 1995
Uruguay	21 January 1993	21 April 1993
Venezuela	22 February 1993	22 May 1993

D. States which have made the declaration under article 41 of the Covenant (45)

State party	Valid from	Valid until
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Croatia	12 October 1995	12 October 1996
Czech Republic	1 January 1993	Indefinitely
Denmark	23 March 1976	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Germany	28 March 1979	27 March 1996
Guyana	10 May 1993	Indefinitely
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	23 March 1976	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely

State party	Valid from	Valid until
Slovenia	6 July 1992	Indefinitely
Spain	25 January 1985	25 January 1993
Sri Lanka	11 June 1980	Indefinitely
Sweden	23 March 1976	Indefinitely
Switzerland	18 September 1992	18 September 1997
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

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[a] Accession.

[b] In the opinion of the Committee, the entry into force goes back to the date when the State became independent.

[c] Succession.

[d] Although a declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40 (A/49/40), vol. I, paras. 48 and 49).

[e] For information on the application of the Covenant in Hong Kong, Special Administrative Region of China, see chapter V, section B, of the annual report for 1996-1997 (A/51/40), paras. 78-85.

[f] Jamaica denounced the Optional Protocol on 23 October 1997, with effect from 23 January 1998.

[g] Trinidad and Tobago denounced the Optional Protocol on 26 May 1998, and re-acceded on the same day, subject to reservations, with effect from 26 August 1998.

ANNEX II

Membership and officers of the Human Rights Committee, 1997-1998

A. Membership

Mr. Nisuke ANDO*	Japan
Mr. Prafullachandra Natwarlal BHAGWATI*	India
Mr. Thomas BUERGENTHAL*	United States of America
Ms. Christine CHANET*	France
Lord COLVILLE**	United Kingdom of Great Britain and Northern Ireland
Mr. Omran EL SHAFEI*	Egypt
Ms. Elizabeth EVATT**	Australia
Mr. Eckart KLEIN*	Germany
Mr. David KRETZMER*	Israel
Ms. Pilar GAITAN DE POMBO**	Colombia
Mr. Rajsoomer LALLAH**	Mauritius
Ms. Cecilia MEDINA QUIROGA*	Chile
Mr. Fausto POCAR**	Italy
Mr. Julio PRADO VALLEJO*	Ecuador
Mr. Martin SCHEININ**	Finland
Mr. Danilo TÜRK** [a]	Slovenia
Mr. Maxwell YALDEN**	Canada
Mr. Abdallah ZAKHIA**	Lebanon

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* Term expires on 31 December 1998.

** Term expires on 31 December 2000.

[a] Resigned from the Committee with effect from 6 July 1998. The vacancy is scheduled to be filled at the election to be held at the Eighteenth Meeting of States parties on 10 September 1998.

B. Officers

The officers of the Committee, elected for two-year terms at the 1560th meeting, on 24 March 1997(fifty-ninth session), are as follows:

Chairperson: Ms. Christine Chanet

Vice-Chairpersons: Mr. Prafullachandra Natwarlal Bhagwati
Mr. Omran El Shafei
Ms. Cecilia Medina Quiroga

Rapporteur: Ms. Elizabeth Evatt

ANNEX III

Guidelines for the exercise of their functions by members of the Human Rights Committee

1. The independence of members of the Committee is essential. The principle of independence requires that the members are not removable during their term of office and are not subject to direction or influence of any kind, or to pressure from the State or its agencies in regard to the performance of their duties. The independence of the members is underlined by articles 28 and 38 of the Covenant and, consequently, they are not accountable to their State, but are accountable only to the Committee and their own conscience.

2. In their work under the Covenant and the Optional Protocol, members of the Committee are expected to maintain the highest standards of impartiality and integrity, and apply the standards of the Covenant equally to all States and all individuals, without fear or favour and without discrimination of any kind. They should not only be impartial, but should also appear to be so.

3. Members should avoid any action in relation to the work of the Committee which might lead to or might be seen to lead to unequal treatment between States. In particular, members should avoid any action which might give the impression that their own State was receiving treatment which was more favourable than that accorded to other States. Considering that members of the Committee can only be from a small number of States, it is important that the election of one of its nationals to the Committee should not result in, or thought to result in, either more favourable or less favourable treatment for the nominating State.

Application of these principles

1. Participation in consideration of State report

4. It is the practice of the Committee that a member does not participate in the examination of the reports presented by his or her country by asking questions, making observations or in any other manner. He or she may be present during the dialogue, and should, as a member, receive all the relevant documents.

5. Other practices which should be observed by members are the following:

(a) A member should not participate in any way in discussing or drafting the concluding observations for his or her own country;

(b) A member should not participate in consultations between the Committee and non-governmental organizations or specialized agencies when the report of his or her own country is being discussed.

2. Participation in communications

6. The participation of members in communications is partly covered by rule 84. However, that rule does not cover all the situations where a State might be seen to have an advantage or a disadvantage by reason of the fact that one of its nationals has been elected to the Committee. The principle of impartiality would require that a member take no part whatsoever, formally or informally, in the discussion of communications from his or her own country, either at the admissibility or merits stage. Nor should a member pass on information about the case, since to do so might result in inequality between States and also, possibly, a violation of natural justice, in the sense that the Committee might act on information not available to and not disclosed to the parties, particularly having regard to article 5, paragraph 1, of the Optional Protocol.

3. Relationship with non-governmental organizations

7. If a member of the Committee is a member of a national non-governmental organization, he or she should observe neutrality and not play any active part in the preparation or submission of information to the Committee.

8. It is desirable for a member of the Committee to abstain from being on the Board of Directors or the Executive Committee of an international non-governmental organization which regularly submits reports and information to the Committee, so as to avoid the appearance of any conflict in their respective capacities.

4. Relationship with Governments

9. The appearance of impartiality of members of the Committee should not be affected by their connection with Governments. They should abstain from engaging in any functions or activities which may appear to be not readily reconcilable with the obligations of an independent expert under the Covenant. Members should abstain from participation in any political body of the United Nations or of any other intergovernmental organization concerned with human rights. They should also abstain from acting as experts, consultants or counsels for any Government in a matter that might come up for consideration before the Committee.

5. Other responsibilities concerning human rights

10. (a) A member of the Committee may act as an independent Rapporteur, expert or member of an independent Working Group, as that would not be incompatible with his or her obligations as an independent expert under the Covenant.

(b) A member of the Committee who is a Special Rapporteur in respect of a State whose report is to be presented to the Committee should not participate in the dialogue with that State. Thematic Rapporteurs, however, should not automatically abstain from such participation, unless there is a situation of possible conflict.

(c) When members of the Committee participate in other human rights activities of intergovernmental organizations such as training courses and seminars, they should make it clear that the views they are expressing are their own and not the views of the Committee.

ANNEX IV

Submission of reports and additional information by States parties under article 40 of the Covenant during the period under review[a]

States parties	Type of report	Date due	Date of submission
Afghanistan	Second	23 April 1989	23 March 1992[b]
	Third	23 April 1994	Not yet received
Albania	Initial/special[c]	3 January 1993	Not yet received
Algeria	Third	1 June 2000	Not yet due
Angola	Initial[d]	31 January 1994	Not yet received
Argentina	Third	11 July 1997	20 July 1998
Armenia	Initial	22 September 1994	14 July 1997
Australia	Third	12 November 1991	Not yet received
Austria	Third	9 April 1993	22 April 1997
Azerbaijan	Second	12 November 1998	Not yet due
Barbados	Third	11 April 1991	Not yet received
Belarus	Fifth[e]	7 November 2001	Not yet due
Belgium	Third	20 July 1994	21 August 1996
Belize	Initial	9 September 1997	Not yet received
Benin	Initial[f]	11 June 1993	Not yet received
Bolivia	Third[d]	31 December 1999	Not yet due
Bosnia and Herzegovina	Initial	5 March 1993	Not yet received
Bulgaria	Third[d]	31 December 1994	Not yet received
Burundi	Second	8 August 1996	Not yet received
Cambodia	Initial	25 August 1993	24 November 1997
Cameroon	Third	26 September 1995	6 March 1997
Canada	Fourth	8 April 1995	4 April 1997
Cape Verde	Initial	5 November 1994	Not yet received
Central African Republic	Second[d]	9 April 1989	Not yet received
Chad	Initial	8 June 1996	Not yet received
Chile	Fourth	28 April 1994	6 October 1997
Colombia	Fifth	2 August 2000	Not yet due
Congo	Second	4 January 1990	9 July 1996
Costa Rica	Fourth	2 August 1995	6 January 1998
Côte d'Ivoire	Initial[g]	25 June 1993	Not yet received
Croatia	Initial	7 October 1992	Not yet received
Cyprus	Fourth[d]	18 August 2002	Not yet due
Czech Republic	Initial	31 December 1993	Not yet received
Democratic People's Republic of Korea	Second	13 December 1987	Not yet received
Democratic Republic of the Congo	Third[d]	31 July 1991	Not yet received
Denmark	Fourth[d]	31 December 1998	Not yet due
Dominica	Initial	16 September 1994	Not yet received
Dominican Republic	Fourth	3 April 1994	Not yet received
Ecuador	Fifth[d]	1 June 2001	Not yet due
Egypt	Third[d]	31 December 1994	Not yet received
El Salvador	Third[d]	31 December 1995	Not yet received
Equatorial Guinea	Initial	24 December 1988	Not yet received
Estonia	Second	20 January 1998	Not yet received
Ethiopia	Initial	10 September 1994	Not yet received
Finland	Fifth[d]	18 August 2003	Not yet due
France	Fourth[d]	31 December 2000	Not yet due
Gabon	Second[d]	31 October 1998	6 February 1998
Gambia	Second	21 June 1985	Not yet received
Georgia	Second	2 August 2000	Not yet due
Germany	Fifth[d]	3 August 2000	Not yet due
Greece	Initial	4 August 1998	Not yet due
Grenada	Initial[h]	5 December 1992	Not yet received
Guatemala	Second	4 August 1998	Not yet due
Guinea	Third	31 December 1994	Not yet received
Guyana	Second	10 April 1987	Not yet received

States parties	Type of report	Date due	Date of submission
Haiti	Initial[i]	31 December 1996	Not yet received
Honduras	Initial	24 November 1998	Not yet due
Hungary	Fourth	2 August 1995	Not yet received
Iceland	Third	31 December 1994	23 March 1995
India	Fourth[d]	31 December 2001	Not yet due
Iran (Islamic Republic of)	Third[d]	31 December 1994	Not yet received
Iraq	Fifth	4 April 2000	Not yet due
Ireland	Second	7 March 1996	Not yet received
Israel	Second[d]	1 June 2000	Not yet due
Italy	Fifth[d]	1 June 2003	Not yet due
Jamaica	Third[d]	7 November 2001	Not yet due
Japan	Fourth	31 October 1996	16 June 1997
Jordan	Fourth	22 January 1997	Not yet received
Kazakhstan[j]			
Kenya	Second	11 April 1986	Not yet received
Kuwait	Initial	20 August 1997	18 May 1998
Kyrgyzstan	Initial	6 January 1996	5 May 1998
Latvia	Second	14 July 1998	Not yet received
Lebanon	Third[d]	31 December 1999	Not yet due
Lesotho	Initial	8 December 1993	8 April 1998
Libyan Arab Jamahiriya	Third[d]	31 December 1995	29 November 1995
Lithuania	Second[d]	7 November 2001	Not yet due
Luxembourg	Third	17 November 1994	Not yet received
Madagascar	Third[d]	31 July 1992	Not yet received
Malawi	Initial	21 March 1995	Not yet received
Mali	Second	11 April 1986	Not yet received
Malta	Second	12 December 1996	Not yet received
Mauritius	Fourth[d]	30 June 1998	Not yet received
Mexico	Fourth	22 June 1997	30 June 1997
Monaco	Initial	27 November 1998	Not yet due
Mongolia	Fourth	4 April 1995	20 March 1998
Morocco	Fourth	31 October 1996	27 January 1997
Mozambique	Initial	20 October 1994	Not yet received
Namibia	Initial	27 February 1996	Not yet received
Nepal	Second	13 August 1997	Not yet received
Netherlands	Third[k]	31 October 1991	Not yet received
New Zealand	Fourth	31 December 1996	Not yet received
Nicaragua	Third	11 June 1991	Not yet received
Niger	Second[d]	31 March 1994	Not yet received
Nigeria	Second	28 October 1999	Not yet due
Norway	Fourth	1 April 1997	4 February 1997
Panama	Third[d]	31 March 1992	Not yet received
Paraguay	Second	9 September 1998	Not yet due
Peru	Fourth	9 April 1998	3 July 1998
Philippines	Second	22 January 1993	Not yet received
Poland	Fourth	27 October 1994	7 May 1996
Portugal	Third	1 August 1991	Not yet received
	Fourth (Macau)[d]	30 June 1998	Not yet received
Republic of Korea	Second	9 July 1996	2 October 1997
Republic of Moldova	Initial	25 April 1994	Not yet received
Romania	Fourth	31 December 1994	26 April 1996
Russian Federation	Fifth	4 November 1998	Not yet due
Rwanda	Third	10 April 1992	Not yet received
	Special[l]	31 January 1995	Not yet received
	Fourth	10 April 1997	Not yet received
Saint Vincent and the Grenadines	Second[d]	31 October 1991	Not yet received
San Marino	Second	17 January 1992	Not yet received
Senegal	Fifth	4 April 2000	Not yet due
Seychelles	Initial[m]	4 August 1993	Not yet received
Sierra Leone	Initial	22 November 1997	Not yet received

States parties	Type of report	Date due	Date of submission
Slovakia	Second[e]	31 December 2001	Not yet due
Slovenia	Second	24 June 1997	Not yet received
Somalia	Initial	23 April 1991	Not yet received
Spain	Fifth	28 April 1999	Not yet due
Sri Lanka	Fourth	10 September 1996	Not yet received
Sudan	Third[e]	7 November 2001	Not yet due
Suriname	Second	2 August 1985	Not yet received
Sweden	Fifth	27 October 1999	Not yet due
Switzerland	Second	17 September 1998	Not yet due
Syrian Arab Republic	Second	18 August 1984	Not yet received
Tajikistan[f]			
Thailand	Initial	28 January 1998	Not yet received
The former Yugoslav Republic of Macedonia	Second[e]	1 June 2001	Not yet due
Togo	Third[e]	31 December 1995	Not yet received
Trinidad and Tobago	Third	20 March 1990	Not yet received
Tunisia	Fourth	4 February 1998	Not yet received
Turkmenistan	Initial	31 July 1998	Not yet received
Uganda	Initial	20 September 1996	Not yet received
Ukraine	Fourth	18 August 1999	Not yet due
United Kingdom of Great Britain and Northern Ireland	Fourth (Jersey, Guernsey and Isle of Man)	18 August 1994	12 February 1997
	Fifth	18 August 1999	Not yet due
United Republic of Tanzania	Fourth[e]	1 June 2001	Not yet due
United States of America	Second	7 September 1998	Not yet due
Uruguay	Fifth[e]	21 March 2003	Not yet due
Uzbekistan	Initial	27 December 1996	Not yet received
Venezuela	Third[e]	31 December 1993	8 July 1998
Viet Nam	Second[e]	31 July 1991	Not yet received
Yemen	Third	8 May 1998	Not yet received
Yugoslavia	Fourth	3 August 1993	Not yet received
Zambia	Third[e]	30 June 1998	Not yet received
Zimbabwe	Second[e]	12 August 2002	Not yet due

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[a] From 1 August 1997 to 31 July 1998 (end of the sixty-third session).

[b] At its fifty-fifth session, the Committee requested the Government of Afghanistan to submit information updating the report before 31 May 1996 for consideration at its fifty-seventh session.

[c] At its sixtieth session, in July 1997, the Committee requested that the initial report of Albania be submitted for consideration at the Committee's sixty-second session.

[d] Pursuant to a Committee decision of 29 October 1993 (forty-ninth session), Angola was requested to submit its initial report by no later than 31 January 1994 for consideration at the fiftieth session. At its sixtieth session, in July 1997, the Committee requested that the initial report of Angola be submitted for consideration at the Committee's sixty-second session.

[e] The date for the submission of this report was fixed by a decision of the Committee following consideration of the preceding report.

[f] At its sixtieth session, in July 1997, the Committee requested that the initial report of Benin be submitted for consideration at the Committee's sixty-second session.

[g] At its sixtieth session, in July 1997, the Committee requested that the initial report of Côte d'Ivoire be submitted for consideration at the Committee's sixty-second session.

[h] At its sixtieth session, in July 1997, the Committee requested that the initial report of Grenada be submitted for consideration at the Committee's sixty-second session.

[i] At its fifty-third session (1415th meeting), following the consideration of a report of Haiti submitted pursuant to a special decision, the Committee decided to extend the deadline for the submission of the initial report of Haiti from 5 May 1992 to 31 December 1996.

[j] Although a declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40 (A/49/40), vol. I, paras. 48 and 49).

[k] A report was received on 6 February 1995 but was subsequently withdrawn.

[l] Pursuant to a Committee decision of 27 October 1994 (fifty-second session), Rwanda was requested to submit by 31 January 1995 a report relating to recent and current events affecting the implementation of the Covenant in the country for consideration at the fifty-second session.

[m] At its sixtieth session, in July 1997, the Committee requested that the initial report be submitted for consideration at the Committee's sixty-second session.

ANNEX V

Status of reports considered during the period under review and of reports still pending before the Committee

State party	Date due	Date of submission	Date examined	Session
A. Initial report				
Armenia	22 September 1994	14 July 1997	Not yet considered	
Cambodia	25 August 1993	24 November 1997	Not yet considered	
Israel	2 January 1993	9 April 1998	15/16 July 1998	Sixty-third
Kuwait	20 August 1997	18 May 1998	Not yet considered	
Kyrgyzstan	6 January 1996	5 May 1998	Not yet considered	
Lesotho	8 December 1993	8 April 1998	Not yet considered	
Lithuania	19 February 1993	16 April 1996	30 October 1997	Sixty-first
The former Yugoslav Republic of Macedonia	16 September 1992	20 March 1998	22/23 July 1998	Sixty-third
Zimbabwe	1 August 1992	20 November 1996	25 March 1998	Sixty-second
B. Second periodic report				
Afghanistan	23 April 1989	25 October 1991	Not yet considered	
Algeria	11 December 1995	11 March 1998	20 July 1998	Sixty-third
Congo	4 January 1990	9 July 1996	Not yet considered	
Gabon	31 December 1998	6 February 1998	Not yet considered	
Jamaica	1 August 1985	6 January 1997	23/24 October 1997	Sixty-first
Republic of Korea	9 April 1996	2 October 1997	Not yet considered	
Sudan	17 June 1992	6 December 1996	28 October 1997	Sixty-first
C. Third periodic report				
Argentina	7 November 1997	20 July 1998	Not yet considered	
Austria	9 April 1993	22 April 1997	Not yet considered	
Belgium	20 July 1994	21 August 1996	Not yet considered	
Cameroon	26 September 1995	6 March 1997	Not yet considered	
Cyprus	31 December 1994	28 December 1994	3 April 1998	Sixty-second
Iceland	31 December 1994	23 March 1995	Not yet considered	
Libyan Arab Jamahiriya	31 December 1995	29 November 1995	Not yet considered	Sixty-third
United Republic of Tanzania	31 December 1993	6 February 1997	24 July 1998	Sixty-third
Venezuela	31 December 1993	8 July 1998	Not yet considered	

State party	Date due	Date of submission	Date examined	Session
D. Fourth periodic report				
Belarus	4 November 1993	11 April 1995	30 October 1997	Sixty-first
Canada	8 April 1995	4 April 1997	Not yet considered	
Chile	28 April 1994	6 October 1997	Not yet considered	
Costa Rica	2 August 1995	6 January 1998	Not yet considered	
Ecuador	4 November 1993	13 March 1997	14 July 1998	Sixty-third
Finland	18 August 1994	10 August 1995	1 April 1998	Sixty-second
Iraq	4 April 1995	5 February 1996	27 October 1997	Sixty-first
Italy	31 December 1995	30 October 1996	17 July 1998	Sixty-third
Japan	31 October 1996	16 June 1997	Not yet considered	
Mexico	22 June 1997	30 June 1997	Not yet considered	
Mongolia	4 April 1995	20 March 1998	Not yet considered	
Morocco	31 October 1996	27 January 1997	Not yet considered	
Norway	1 August 1996	4 February 1997	Not yet considered	
Peru	9 April 1998	3 July 1998	Not yet considered	
Poland	27 October 1994	7 May 1996	Not yet considered	
Romania	31 December 1994	26 April 1996	Not yet considered	
Senegal	4 April 1995	19 September 1995	21/22 October 1997	Sixty-first
United Kingdom of Great Britain and Northern Ireland (Jersey, Guernsey and Isle of Man)	18 August 1994	12 February 1997	Not yet considered	
Uruguay	21 March 1993	19 December 1996	27 March 1998	Sixty-second

ANNEX VI

List of States parties' delegations that participated in the consideration of their respective reports by the Human Rights Committee at its sixty-first, sixty-second and sixty-third session

(Listed in the order in which their reports were considered)

SENEGAL	Representative	Mr. Amadou Diop, Diplomatic Adviser to Senegal's Head of State
	Advisers	Mr. Maymouna Diop, Director of Judicial and Consular Affairs, Ministry of Foreign Affairs Mr. Mandiogou Ndiaye, Inspector at the Ministry of Justice Mr. El Hadji Malick Sow, President of the Tribunal Department at Dakar Mr. Ibou Ndaiye, Minister-Counsellor at the Permanent Mission of Senegal to the United Nations Office at Geneva Mr. Abdou Aziz Ndiaye, Second Secretary, at the Permanent Mission of Senegal to the United Nations Office at Geneva
JAMAICA	Representative	Mr. Kenneth Rattray, Solicitor-General of Jamaica
	Advisers	Mr. Anthony Hill, Permanent Representative of Jamaica to the United Nations Office at Geneva Mr. John Prescot, Commissioner of Corrections Mr. Franz Hall, Counsellor at the Permanent Mission of Jamaica to the United Nations Office at Geneva
IRAQ	Representative	Mr. Dhari K. Mahmood, Director-General of the Ministry of Justice
	Advisers	Mr. Saad A'Aoon, Counsellor at the Ministry of Foreign Affairs, Department of Human Rights Mr. Basil Yousif, Adviser at the Ministry of Foreign Affairs, Department of Human Rights Mr. Abdul Monem Jawad, First Secretary, Ministry of Foreign Affairs
SUDAN	Representative	Mr. Ahmed El Mufti, Rapporteur of Sudan's Advisory Council for Human Rights
	Advisers	Mr. Dafaa Alla El Radi, Chairman of the Technical Committee of the National Commission for the Constitution
BELARUS	Representative	Ms. Nina Mazai, Deputy Minister for Foreign Affairs
	Advisers	Mr. Stanislau S. Agurtsou, Permanent Representative of Belarus to the United Nations Office at Geneva Mr. Igor Andreev, Director of the Institute for the Development of Legislation Ms. Natallia Drozd, Head of the Department for Humanitarian Cooperation at the Ministry of Foreign Affairs Mr. Syargei Kolas, Head of the Legal Department at the Ministry of Foreign Affairs Ms. Alena Kupchyna, Counsellor at the Permanent Mission to the United Nations Office at Geneva Mr. Uladzimir Scherbau, Third Secretary at the Ministry of Foreign Affairs
LITHUANIA	Representative	Mr. Albinas Januska, Vice-Minister for Foreign Affairs
	Advisers	Mr. Darias Jurgelevicius, Director, Legal and International Treaties Department, Ministry of Foreign Affairs Mr. Audrius Navikas, Chargé d'affaires, Permanent Mission of Lithuania to the United Nations Office at Geneva Mr. Austine Burneikiene, Head of the Legal Division, Ministry of the Interior Mr. Gintaras Goda, Chief Specialist, Lawyer's Training Department, Ministry of Justice Ms. Viktorija Staugaityte, Attaché, Domestic Law Division, Ministry of Foreign Affairs Mr. Romas Svedas, Counsellor at the Permanent Mission of Lithuania to the United Nations Office at Geneva

CYPRUS	Representative	Mr. George Stavrinakis, Law Commissioner
	Advisers	Mr. Sotos Zackheos, Ambassador, Permanent Representative to the United Nations Ms. Leda Koursoumba, Senior Counsel of the Republic of Cyprus Mr. Cornelios Korneliou, First Secretary
ZIMBABWE	Representative	Dr. Machivenyika T. Mapuranga, Ambassador
	Advisers	Mr. T. Chigudu, Permanent Secretary, Home Affairs Ms. F. Chatukuta, Attorney General's Office Ms. C. Nzenza, Counsellor Ms. E. Chibanda-Munyati, Legal Adviser, First Secretary
URUGUAY	Representative	Sr. Dr. Embajador Jorge Talice, del Ministerio de Relaciones Exteriores
	Advisers	Sr. Dr. Gustavo Alvarez, del Ministerio de Relaciones Exteriores Sr. Diego Pelufo, Tercer Secretario de la Representación Permanente del Uruguay ante las Naciones Unidas
FINLAND	Representative	Mr. Pekka Hallberg, President of the Supreme Administrative Court of Finland
	Advisers	Mr. Risto Veijalainen, Director General, Ministry of the Interior Ms. Irma Ertman, Deputy Director General, Ministry for Foreign Affairs Mr. Veli-Pekka Viljanen, Legislative Counsellor, Ministry of Justice Ms. Påivi Pietarinen, Legal Officer, Ministry for Foreign Affairs Mr. Johan Schalin, First Secretary, Permanent Mission of Finland to the United Nations
ECUADOR	Representative	Dr. Luis Gallegos Chiriboga, Embajador, Representante Permanente del Ecuador ante la Oficina Europea de las Naciones Unidas en Ginebra
	Advisers	Dr. Marco Antonio Guzmán, Asesor de la Procuraduria General del Estado Economista Antonio Rodas, Representante Permanente Adjunto de la Misión Permanente del Ecuador ante las Naciones Unidas Dr. Juan Carlos Castrillón, Segundo Secretario de la Misión Permanente del Ecuador ante las Naciones Unidas
ISRAEL	Representative	Mr. Joshua Schoffman, Deputy Attorney General (legislation), Ministry of Justice
	Advisers	Mr. Richard Bardenstein, Advocate, Adviser to the Ministry of Justice Mr. Malkiel Blass, Director of the Public Law Division at the State Attorney's Office Mr. Yosef Lamdan, Ambassador, Permanent Representative of Israel to the United Nations Office at Geneva Mr. Alexander Galilee, Deputy Permanent Representative of Israel to the United Nations Office at Geneva
ITALY	Representative	M. Mario Alessi, Ambassadeur, Ministère des affaires etrangères
	Advisers	Pr. Luigi Citarella, Secrétaire général du Comité interministeriel des droits de l'homme M. Massimo Pierangelini, Expert, Ministère de l'interieur Mme Roberta Barberini, Expert, Ministère de la justice Mme Adelaide Antonelli, Expert, Ministère du travail Mme Carla Zupetti, Premier conseiller de la Mission permanente de l'Italie auprès de l'Office des Nations Unies à Génève
ALGERIA	Representative	M. Mohamed-Salah Dembri, Ambassadeur, Mission permanente de l'Algérie auprès de l'Office des Nations Unies à Génève
	Advisers	M. Amar Abba, Directeur général des relations multilatérales au Ministère des Affaires etrangères à Alger M. Mohamed Hassaine, Conseiller, Mission permanente de l'Algérie auprès de l'Office des

		Nations Unies à Génève Mlle Farida Aiouaze, Conseiller, Mission permanente de l'Algérie auprès de l'Office des Nations Unies à Genève M. Saíd Zerrouki, Directeur des elections et des elus au Ministère de l'interieur, des collectivités locales et de l'environnement
		Mlle Fatiha Akeb, Directrice de la presse ecrite, Ministère de la communication et de la culture M. Hamed Abdelwahab, Chargé d'etudes et de synthèse au Ministère de la justice Mme Nadia Bouadbellah, Chargé d'etudes et de synthèse au Ministère de la justice Mme Leila Zerrouki, Chargé d'etudes de synthèse au Ministère de la justice Mlle Fatma Zohra Chaieb, Chargé d'etudes de synthèse au Ministère de la santé et de la population M. Abdel Nacer Almas, Chargé d'etudes de synthèse au Ministère de la solidarité et de la famille M. Lazhar Soualem, Sous directeur des affaires humanitaires et des droits de l'homme, Ministère des affaires etrangères M. Smail Hellab, Conseiller, Ministère des affaires etrangères Mme Fatima Zohra Karadja, Membre de l'Observatoire nationale des droits de l'homme
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA	Representative	Mr. Sasko Todorovski, Assistant Minister Ministry of Foreign Affairs
	Advisers	Mr. Goce Petreski, Ambassador, Permanent Representative of the former Yugoslav Republic of Macedonia to the United Nations Office at Geneva Mr. Dragi Celevski, Director of the Directorate for Execution of Sanctions, Ministry of Justice Ms. Lela Jakovlevska, Adviser to the Minister, Ministry of Education and Sport Ms. Elena Grozdanova, Adviser to the Minister, Ministry of Labour and Social Policy
	Advisers	Mr. Trpe Stojanovski, Head of Analytical Department, Ministry of Interior Ms. Mirjana Lazarova-Trajkovska, Head of Administrative Affairs Department, Ministry of Interior Ms. Jelena Cvetanovska, Director of the Humanitarian and Social Affairs Directorate, Ministry of Foreign Affairs Ms. Elizabeta Gorgieva, Head of Human Rights Department, Ministry of Foreign Affairs Mr. Zoran Jolevski, First Secretary, Permanent Mission of the former Yugoslav Republic of Macedonia to the United Nations Office at Geneva Ms. Biljana Stefanovska-Sekovska, First Secretary, Permanent Mission of the former Yugoslav Republic of Macedonia to the United Nations Office at Geneva Ms. Tatjana Janjic, Counsellor, Ministry of Justice
UNITED REPUBLIC OF TANZANIA	Representatives	Mr. Francis Malambugi, Minister Counsellor, Chargé d'affaires a.i., Permanent Mission of the United Republic of Tanzania to the United Nations Office at Geneva Mr. Christopher Kalanje, First Secretary, Permanent Mission of the United Republic of Tanzania to the United Nations Office at Geneva

ANNEX VII

General Comments under article 40, paragraph 4, of the International Covenant on Civil and Political Rights

General Comment No. 26(61)[a]

The General Comment concerns issues relating to the continuity of obligations under the International Covenant on Civil and Political Rights.

1. The International Covenant on Civil and Political Rights does not contain any provision regarding its termination and does not provide for denunciation or withdrawal. Consequently, the possibility of termination, denunciation or withdrawal must be considered in the light of applicable rules of customary international law which are reflected in the Vienna Convention on the Law of Treaties. On this basis, the Covenant is not subject to denunciation or withdrawal unless it is established that the parties intended to admit the possibility of denunciation or withdrawal or a right to do so is implied from the nature of the treaty.

2. That the parties to the Covenant did not admit the possibility of denunciation and that it was not a mere oversight on their part to omit reference to denunciation is demonstrated by the fact that article 41(2) of the Covenant does permit a State party to withdraw its acceptance of the competence of the Committee to examine inter-State communications by filing an appropriate notice to that effect, while there is no such provision for denunciation or withdrawal from the Covenant itself. Moreover, the Optional Protocol to the Covenant, negotiated and adopted contemporaneously with it, permits State parties to denounce it. Additionally, by way of comparison, the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted one year prior to the Covenant, expressly permits denunciation. It can therefore be concluded that the drafters of the Covenant deliberately intended to exclude the possibility of denunciation. The same conclusion applies to the Second Optional Protocol in the drafting of which a denunciation clause was deliberately omitted.

3. Furthermore, it is clear that the Covenant is not the type of treaty which, by its nature, implies a right of denunciation. Together with the simultaneously prepared and adopted International Covenant on Economic, Social and Cultural Rights, the Covenant codifies in treaty form the universal human rights enshrined in the Universal Declaration of Human Rights, the three instruments together often being referred to as the "International Bill of Human Rights". As such, the Covenant does not have a temporary character typical of treaties where a right of denunciation is deemed to be admitted, notwithstanding the absence of a specific provision to that effect.

4. The rights enshrined in the Covenant belong to the people living in the territory of the State party. The Human Rights Committee has consistently taken the view, as evidenced by its long-standing practice, that once the people are accorded the protection of the rights under the Covenant, such protection devolves with territory and continues to belong to them, notwithstanding change in Government of the State party, including dismemberment in more than one State or State succession or any subsequent action of the State party designed to divest them of the rights guaranteed by the Covenant.

5. The Committee is therefore firmly of the view that international law does not permit a State which has ratified or acceded or succeeded to the Covenant to denounce it or withdraw from it.

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[a] Adopted by the Committee at its 1631st meeting (sixty-first session), on 29 October 1997.

ANNEX VIII

Document on procedures for the consideration of initial and periodic reports under article 40 of the Covenant, adopted on 9 April 1998

1. The Task Force on Working Methods was established at the Committee's sixtieth session to discuss issues relating to the procedures for the consideration of initial and periodic reports under article 40 of the Covenant and make appropriate recommendations to the plenary. The Task Force met several times during the sixty-first and sixty-second sessions and envisaged various options described in written papers which had been prepared by members and circulated among them prior to the sessions. The following paragraphs summarize the main suggestions agreed upon by the Task Force.

Conduct of the discussion with the delegation

2. Given the limited time available to consider reports (a maximum of two meetings), the Chairperson should not hesitate to take stringent measures to ensure that each speaker (members of the Committee and of the delegations) can raise issues, make comments or respond to questions in a proper and satisfactory manner. To this effect, the introductory statement from the delegation should, in general, be limited to 15 minutes. Welcoming greetings, particularly when a present or former member of the Committee is a national of the reporting State, should only be made by the Chairperson.

3. The practice of having all members of the Committee taking the floor at the end of the discussion to make their own concluding remarks has been discontinued. The Chairperson will, as a matter of principle, sum up the dialogue. Interested members should only exceptionally take the floor at this stage.

4. The format of lists of issues should be modified with a view to reducing the number of written questions and having the issues more focused and detailed. As a rule, the questions should not be divided into separate parts. The Chairperson may, nevertheless, decide to subdivide the questions for purposes of the discussion. The order of the questions will depend on the previous concluding observations and/or the contents of the report.

Concluding observations

5. It was reiterated that concerns expressed should be based solely on the discussion that actually took place with the delegation and that items which were not addressed to the delegation should not give rise to comments. Additionally, concerns as well as recommendations should be specific and detailed.

6. The concluding observations should be drafted by the Country Rapporteur concerned with the assistance of two members or more selected by him or her. Members should make an effort to provide written suggestions to be inserted. It should not be the practice to have all concluding observations adopted at the end of the session; efforts should be made to have concluding observations discussed in plenary (in private session) whenever a text is ready and time is available, at the discretion of the Chairperson.

Periodicity, preparation of States' reports and guidelines to that effect

7. The decision on periodicity (CCPR/C/19/Rev.1) should be amended along the following lines:

> "(...) 2. In accordance with article 40, paragraph 1 (b), the date for the submission of the following periodic report should generally be up to five years after the consideration of the previous report. The criteria to be used in that regard are the following: (i) delays in submission of reports, (ii) delays in the consideration of these reports if attributable to the State, (iii) quality of the reports and of the dialogue, and (iv) nature of

> the concerns and recommendations expressed in the concluding observations. This rule will be implemented as from the sixty-third session of the Human Rights Committee."

8. As far as the contents of the report is concerned, the initial and second periodic reports should be comprehensive in that they cover all obligations of the Covenant. The initial report should also describe the legal and constitutional national institutions bearing on the implementation of the Covenant. The second periodic report should, additionally, deal with the concluding observations, if any, adopted at the end of the consideration of the initial report. Subsequent reports should, on an article by article basis, provide information on measures taken to address the Committee's concerns and recommendations contained in the concluding observations, as well as on any new development, if any, in law and in practice. The States may address any questions concerning Covenant rights, which they think may be usefully considered by the Committee.

Contacts with the media

9. With a view to improving the relationship with the media, a more flexible procedure should be adopted, such as having a press conference in the middle of the session rather than at the end. Press releases should be issued when the circumstances warrant this. Efforts should be undertaken by all members with a view to strengthening contacts with the media.

ANNEX IX

Letter from the Chairperson of the Committee to the Chairman of the International Law Commission and Special Rapporteur On Treaty Reservations, dated 9 April 1998

Dear Mr. Pellet,

On behalf of the United Nations Human Rights Committee, I should like to acknowledge receipt of your letter of 24 November 1997, enclosing the International Law Commission's Preliminary Conclusions on reservations to normative multilateral treaties, including human rights treaties. Permit me to express our appreciation for the opportunity to comment on these conclusions.

The Human Rights Committee has taken note of the views of the International Law Commission, and proposes to study the Preliminary Conclusions more carefully and to formulate its comments at a later stage. However, it wishes to express as from now its concern about the views expressed by the Commission in paragraph 12 of its Preliminary Conclusions, where it "emphasizes that the above conclusions are without prejudice to the practices and rules developed by monitoring bodies within regional contexts". In this connection, the Committee considers that regional monitoring bodies are not the only intergovernmental institutions which participate in and contribute to the development of practices and rules. Universal monitoring bodies, such as the Human Rights Committee, play no less important a role in the process by which such practices and rules develop and are entitled, therefore, to participate in and contribute to it. In this context, it must be recognized that the proposition enunciated by the Commission in paragraph 10 of the Preliminary Conclusions is subject to modification as practices and rules developed by universal and regional monitoring bodies gain general acceptance.

(*Signed*) Christine CHANET
Chairperson, Human Rights Committee

ANNEX X

List of documents issued during the reporting period

CCPR/C/42/Add.15	Second periodic report of Jamaica
CCPR/C/74/Add.3	Initial report of Zimbabwe
CCPR/C/74/Add.4	Initial report of the former Yugoslav Republic of Macedonia
CCPR/C/75/Add.2	Second periodic report of the Sudan
CCPR/C/81/Add.10	Initial report of Lithuania
CCPR/C/81/Add.13	Initial report of Israel
CCPR/C/83/Add.2	Third periodic report of the United Republic of Tanzania
CCPR/C/84/Add.4 and Add.7	Fourth periodic report of Belarus
CCPR/C/84/Add.6	Fourth periodic report of Ecuador
CCPR/C/94/Add.1	Third periodic report of Cyprus
CCPR/C/95/Add.6	Fourth periodic report of Finland
CCPR/C/95/Add.9	Fourth periodic report of Uruguay
CCPR/C/101/Add.1	Second periodic report of Algeria
CCPR/C/103/Add.1	Fourth periodic report of Senegal

Concluding observations of the Human Rights Committee on the States parties' reports

CCPR/C/79/Add.82	Concluding observations of the Human Rights Committee on States parties' reports - Senegal
CCPR/C/79/Add.83	Concluding observations of the Human Rights Committee on States parties' reports - Jamaica
CCPR/C/79/Add.84	Concluding observations of the Human Rights Committee on States parties' reports - Iraq
CCPR/C/79/Add.85	Concluding observations of the Human Rights Committee on States parties' reports - Sudan
CCPR/C/79/Add.86	Concluding observations of the Human Rights Committee on States parties' reports - Belarus
CCPR/C/79/Add.87	Concluding observations of the Human Rights Committee on States parties' reports - Lithuania
CCPR/C/79/Add.88	Concluding observations of the Human Rights Committee on States parties' reports - Cyprus
CCPR/C/79/Add.89	Concluding observations of the Human Rights Committee on States parties' reports - Zimbabwe
CCPR/C/79/Add.90	Concluding observations of the Human Rights Committee on States parties' reports - Uruguay
CCPR/C/79/Add.91	Concluding observations of the Human Rights Committee on States parties' reports - Finland

CCPR/C/79/Add.92	Concluding observations of the Human Rights Committee on States parties' reports - Ecuador
CCPR/C/79/Add.93	Concluding observations of the Human Rights Committee on States parties' reports - Israel
CCPR/C/79/Add.94	Concluding observations of the Human Rights Committee on States parties' reports - Italy
CCPR/C/79/Add.95	Concluding observations of the Human Rights Committee on States parties' reports - Algeria
CCPR/C/79/Add.96	Concluding observations of the Human Rights Committee on States parties' reports - The former Yugoslav Republic of Macedonia
CCPR/C/79/Add.97	Concluding observations of the Human Rights Committee on States parties' reports - United Republic of Tanzania

Provisional agendas and annotations

CCPR/C/126	Provisional agenda and annotations (sixty-first session)
CCPR/C/132	Provisional agenda and annotations (sixty-second session)
CCPR/C/134 and Corr.1	Provisional agenda and annotations (sixty-third session)

Miscellaneous documents

CCPR/C/3/Rev.5	Rules of procedure of the Human Rights Committee
CCPR/C/21/Rev.1 Add.8/Rev.1	General Comment No. 26 (61)
CCPR/C/61/GUI	Guidelines for the exercise of their functions by members
CCPR/C/127	Initial reports of States parties due in 1998
CCPR/C/128	Second periodic report of States parties due in 1998
CCPR/C/129	Third periodic report of States parties due in 1998
CCPR/C/130	Fourth periodic report of States parties due in 1998
CCPR/C/131	Fifth periodic report of States parties due in 1998
CCPR/C/133	Report on the informal meeting on procedures

Summary records of Committee discussions

CCPR/C/SR.1616-1644	Summary records of the sixty-first session
CCPR/C/SR.1645-1670	Summary records of the sixty-second session
CCPR/C/SR.1671-1699	Summary records of the sixty-third session